SENATE—*Friday, July 31, 1987*

(Legislative day of Tuesday, June 23, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable KENT CONRAD, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

For thine is the kingdom and the power and the glory forever. Amen.—Matthew 6:13.

Almighty God, all powerful, all wise, we pray for Your servants in the Senate, some of the most powerful people in the world, who bear the burden of decision, often cosmic in implications. You know Father, the pain of indecision which they sometimes experience—the ambivalence—equivocation—as they labor under momentous issues which do not yield to simple solutions. You know the emotions aroused when the power of one collides with the power of another—like an irresistible force meeting an immovable object. You know the conflict between conscience and constituents, between principle and pragmatics. You know, Mighty Lord, the frustration felt when these powerful people become aware of the powerlessness of the best they can do in light of legislative limitation—the intransigence of people and the human disposition to laissez-faire morality. Grant, Gracious Lord, Your wisdom and strength in this present struggle. Bring glory to Yourself and just benefits to all. In His name who is light and love and truth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 31, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KENT CONRAD, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. BYRD. Mr. President, today the Senate will be working on the debt limit extension. The debt limit extension, the short-term expires, I believe, at midnight next Thursday. If the Senate has not completed its work by midnight next Thursday—and I say the Senate, the House and the Senate because this measure goes from the Senate, if the measure is amended, goes back to the House and if the House does not accept the Senate amendments, then there will be a conference, and unless the measure itself is put on the President's desk and signed by midnight Thursday, then the Government will be unable to meet its responsibilities, unable to pay its bills, unable to borrow money. Social Security checks will not go out, the veterans' checks will not go out and we are going to be in a heck of a mess.

This is a thorny matter. I hope that Senators understand that we may have to be in this Saturday. We may have to be in next Saturday. We may have to have long evenings. We may have to cut into the August break. I have said that before. Because this is one thing we cannot leave here and just walk off and go home.

We might leave an appropriation, an interior appropriation bill here or some other piece of legislation and go on and work on it when we get back.

So, Senators need to understand that there will be votes. They need to understand that we need to make haste in acting on this bill.

I do not recommend haste to the point of being reckless and careless. But it is a matter that we have to attend to before this Senate goes out for the August recess.

I hope that Senators will be prepared to stay late this evening and we will be in Monday, as I say.

Once the Senate passes this measure it goes to conference and I hope, then, that we can get up other matters. I have mentioned before that I would like to take up the catastrophic illness legislation. Our distinguished Republican leader has been trying to help me get that up. The 2-day rule prevented its coming up yesterday because we could not get unanimous consent. That rule will not stand in the way today. Of course, we have the debt limit matter up today.

But at such time as the debt limit matter is sent back to the House, then we will need to go to catastrophic illness legislation. That deals with the poor and the elderly in this country and it is a very important piece of legislation.

I take the floor at this time merely to underline the seriousness of the matter that is before us and I hope that all Senators will govern themselves accordingly. If I have any time remaining, I ask unanimous consent that I may reserve it until later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the standing order, the Republican leader is recognized.

Mr. DOLE. Let me underscore what the distinguished majority leader just said about the debt limit extension. We have had a brief discussion of this. I would hope that except for germane amendments, we might have some agreement on both sides that all will be tabled. We have not reached that. I talked to Senator DOMENICI, the ranking Republican, to see if that would be his wish. I think the manager is going to have enough difficulty just with germane amendments.

I am not certain how many there are but, hopefully, we can dispose of the entire matter today. I know that is the majority leader's wish. I will be consulting with Senator DOMENICI. I have been discouraging nongermane amendments on this side. If they are germane amendments to the Gramm-Rudman fix or something of that kind, I assume certainly Senators have every right to offer those. They have a right to offer them at any time. But the majority leader has made the point—in my own case, I guessed we would be here Saturday of this weekend and Saturday of next week, so my schedule reflects that, and I think everyone is on notice that it could happen. But I would assume if we

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

complete action on the debt ceiling today, that would not be necessary.

Second, with reference to the catastrophic illness bill, there is one provision in particular that is causing us problems on this side and I think to some extent on the other side and that is the prescription drug provision.

I have indicated that if Senator BENTSEN had the time today we would be happy to sit down with him, four or five on this side who have raised that question, because it seemd to me that there may be some way to resolve that. If that is the case then we can go to that. So we are trying to help the distinguished majority leader.

There ought to be some other things that we might be helpful on if that gets stalled.

But we have on this side indicated that there is a good possibility that any nongermane amendments will be tabled. I hope that might discourage a lot of those. There will be other opportunities which we are prepared to assist with in any way we can.

This is important. The majority leader is correct. Next Thursday night at midnight as I understand it, unless I misunderstand it, that is the drop-dead time as far as meeting our obligations.

Mr. BYRD. Mr. President, distinguished minority leader, I am glad the leader has mentioned the nongermane amendments.

This bill is not the vehicle and this is not the time to call up nongermane amendments.

I know, sometimes a Senator or a House Member gets so excited about his amendment he thinks it would be just as well to let the Government shut down as to forgo the opportunity for him to call up his amendment. I hope that we will not take that attitude and I hope that Senators will not offer nongermane amendments, and I hope if they do, that they will be tabled because this is just not the time for them.

I want to join with the Republican leader in pressing to table nongermane amendments.

There are too many other things which are much more important on the catastrophic illness bill. I hope the matter can be resolved. In any event, I think we should go ahead and let the matter be resolved right here on the floor. Sometimes that heightens the pressure on Senators and we get down to business and work out these matters. Otherwise, we have too many staff people involved and it is always easier to put it off on either side, and we continue to wait and wait.

Mr. DOLE. Let me further underscore the nongermane amendments. As far as the administration is concerned, they would just as soon have a debt ceiling that is clean. I want my colleagues on this side to know that it is not just the two leaders, but it also is the hope of the administration to keep off nongermane amendments. We have indicated that on our side. The President has indicated that to me, and the Secretary of the Treasury and the chief of staff, Howard Baker. They know the problems that would be created if the Government came to a halt and we could not meet our obligations.

BICENTENNIAL MINUTE

JULY 31, 1953: ROBERT TAFT DIES IN OFFICE

Mr. DOLE. Mr. President, on July 31, 1953, 34 years ago today, the Senate mourned the death of one of its great leaders, Ohio's Senator Robert A. Taft. Senate Minority Leader Lyndon Johnson wrote that Taft, known to his contemporaries as "Mr. Republican," "was characterized by a rocklike integrity, unconquerable common sense at all times, and an unswerving devotion to the principles in which he believed." In 1957, a special Senate committee chaired by Senator John F. Kennedy chose Taft as one of the five most significant Senators in the institution's history, and his portrait is one of the five to grace the Senate reception room.

Coming from a long family tradition of public service, Taft served in both houses of the Ohio Legislature before winning election to the Senate in 1938. Here, he vigorously opposed the foreign and domestic policies of the "new deal," believing instead in decentralization at home, and nonintervention abroad. He sponsored the Taft-Hartley Act, designed to limit the powers of labor unions, which became law in 1947 over President Truman's veto. He also persuaded his colleagues to create the Republican Steering Committee—later the Republican Policy Committee—which he chaired.

Robert Taft tried, unsuccessfully, to win the Republican Presidential nomination three times, losing the last and closest contest in 1952 to Dwight Eisenhower. With his hopes for the Presidency behind him, Taft seemed more conciliatory. He and Eisenhower agreed to an agenda for foreign and domestic policies. When Taft became majority leader in January 1953, he was Eisenhower's strongest Senate supporter. Four months later, at the height of his power, Taft learned that he had cancer. During his last months, he walked the Capitol's halls with the aid of crutches. After his death on July 31, a memorial service was held in the Capitol rotunda, where 30,000 people filed by to pay tribute to this extraordinary Senator.

Mr. President, I reserve the remainder of my time.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business until 9:30 a.m., and that Senators may be permitted to speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wisconsin.

TIME TO SAVE MORE, BORROW LESS, AND SPEND LESS

Mr. PROXMIRE. Mr. President, how serious a threat is the present level of public and private debt to our financial institutions and our economy? The facts are painful. Let us look at them. Bank failures have sharply increased in the past 2 years. In 1985 the country suffered the largest number of bank failures in more than 50 years. That is since the depth of the Great Depression of the 1930's. The number of failures in 1986 was even higher. And 1987 is running ahead of the 1986 pace. Is this a matter of concern? Yes. Does this represent a trend that could foretell a return to the disastrous bank failures of the 1930's? Maybe no. Maybe yes. Why maybe no? First, although the number of bank failures has been high, the proportion is still a bare 1 percent of the Nation's banks. It is an even smaller percent of the Nation's banking assets. Second, there have been approximately as many new banks chartered as there have been established banks that failed. Third, no depositor who has deposited less than $100,000 in any of these failed banks has lost a nickel. Fourth, almost none of the largest depositors have suffered losses. Fifth, most of the employees of the failed banks have continued to hold their jobs under new management in the great majority of failures. Sixth, in virtually every community where banks have failed people who live and work in the community have continued to have access to banking facilities in about the same proportion as before. In spite of more than 2 years of the highest number of bank failures in 50 years, banking services throughout the country remain as widely available as ever. The United States still leads the countries of the world by a very wide margin in the dispersion of its banking institutions and the vigorous competition among individually owned banks. Seventh, a public survey by the publication the American Banker reported on May 11 found that while five times as many Americans have more confidence in the safety and soundness of commercial banks than savings and loan, 82 percent answered yes to the question: "Do you feel it is safe to keep your money in a savings and loan?" Obviously an even greater proportion of the public is convinced of the safety of their commercial bank.

Does all this mean we are home free? Does this mean there is no safety and soundness problem for American banking? No, it does not. Since the great depression our banking system has not been tested. Since the early 1940's our country has enjoyed a long period of relatively stable growth. There have been regular, relatively mild recessions. There have been no depressions. Until 1980 the level of public and private borrowing was both moderate and stable. The level of savings was also stable, varying between 6 and 7 percent. Since 1980 the situation has changed and radically changed. It has changed so dramatically that this country could easily be on the verge of economic developments including a long and deep depression that would profoundly test our system and especially our financial institutions.

Here is why: Our country has plunged very deeply in debt. Much of that debt is held by our financial institutions. The Federal Government has doubled the national debt from less than $1 trillion in the fall of 1981 to more than $2.3 trillion today. Household debt is even worse. It has streaked to more than $2.8 trillion and rising, in fact rapidly rising. The biggest American debtors of all are the corporations. American nonfinancial corporations today owe more than $3 trillion in debt. Now contrast this vast ocean of debt with the dramatic contraction of American savings. The roughly 6½ percent of income that Americans had put away as savings on the average since shortly after the end of World War II has dwindled last year to little more than 3 percent. This year it is even less. American corporations partly pushed on by the threat of hostile takeovers have traded equity for debt in a very big way.

What does all this mean? It means that American consumers and American corporations will be specially vulnerable come the next recession. The Federal Government—itself strapped and limited by its colossal national debt can no longer play its automatic and traditional role with a counter cyclical fiscal policy to pull the economy out of recessions. How can we increase spending and cut taxes—without running up deficits of such magnitude that would torpedo business confidence? The Federal Reserve has—for the past 18 months—poured credit into the economy as never before. Our economy is floating on a sea of liquidity. The Fed can take no further action to ease the pain of an oncoming recession. Result: When recession strikes—as it must periodically in every free economic system, we will see record individual bankruptcies. We will also see deep and widespread corporate failures. The personal savings cushion that bailed out Americans before has little leeway today. The equity cushion that kept our corporations above water through many months or years of losses will sink much more quickly this time.

And who will be holding the bag? The banks, that is who. The banks hold much of this mountain of debt. As householders are unable to pay their mortgage interest, as corporations fail to meet their debt service it is the banks that will come up short. In spite of strong action by the Federal Reserve to persuade to strengthen their capital ratio, our banks today generally have a lower ratio of equity to debt than they have had traditionally. A serious recession could shake many an American bank. A depression would put our financial system in serious jeopardy. The Federal Deposit Insurance system has been a credit bulwark against widespread financial panic and collapse in the past. The next recession will test it as never before. Our country needs a strong dose of Ben Franklin conservatism. Not ony does our Federal Government need to follow much more conservative fiscal policies, so do our citizens and our corporations.

THE NATIONAL SECURITY CONCERNS OF A WALL STREET RAID ON BOEING

Mrs. KASSEBAUM. Mr. President, it has recently been announced that the Boeing Company might be subject to a hostile takeover. I think it should be pointed out that this would be the first hostile takeover of a major military contractor. I have long criticized Wall Street raids on well capitalized corporations. From a national security standpoint, however, I think a raid on Boeing is particularly alarming.

Boeing is one of the Nation's most respected and reliable military contractors. It provides essential equipment, parts, and supplies for national defense and is in the midst of several classified programs for the Defense Department and the National Aeronautics and Space Administration. Do we really want it controlled by any Tom, Dick, or Boone, whose only concern is a temporary stock price increase? Should we not also be concerned about our long-term national security.

The consequences of hostile raids on military contractors can be very serious. In the past, companies subjected to such Wall Street raids have either lost their independence or have been restructured by liquidating assets and taking on enormous debt. Stock market analysts are already suggesting these scenarios for Boeing.

In the interest of our national security, I do not think we can ignore the possible consequences of a hostile raid on Boeing. A well-priced but productively stagnant Boeing is not in our national interest. Nor is a reduction in the number of well-capitalized and independent military suppliers. To ensure that our long-term national security interests are protected against disruptive actions on Wall Street, I urge the Defense and Justice Departments to review the Boeing situation carefully.

To the extent the Boeing situation represents yet another attempt by a raider whose only intention is to put a company in play so as to make a quick gain, I think it highlights the defects of our current securities laws. In this regard, I support the efforts by Senator PROXMIRE and his committee on Banking, Housing, and Urban Affairs to correct these defects. It is my hope that proposals to correct the problems associated with this kind of tender offer will be brought forward in a timely and expedited manner.

DECLINE IN POVERTY RATES

Mr. DOMENICI. Mr. President, I read with great interest today the headline in the New York Times: "Poverty Rate Dips as Median Family Income Rises," and the headline in the Washington Post: "Percentage of Poor Americans at Lowest Level Since 1980."

The stories report the good news from the Census Bureau that the proportion of Americans living in poverty dropped to 13.6 percent last year, the lowest level since 1980. That is 700,000 fewer people in poverty.

The percentage of poor elderly, children, blacks and hispanics, all vulnerable groups, declined from 1985 to 1986.

When in-kind benefits like food stamps, housing assistance, and Medicaid are counted, the percentage of poor people declines to 9 percent.

At the same time the number of poor people was declining, family income was rising. Median family income in America rose to $29,458 in 1986. That is a 4.2-percent increase after inflation. It is also the fourth year in a row that family income has risen.

Mr. President, we are seeing today the fruits of 4 years of sustained economic growth, low inflation, and more people working.

There are, of course, areas where we need to make more progress. The poverty rate among children, though declining, is still too high. The number of female headed households in poverty increased. These are related phenomena, and we ought to direct our energy to improving this situation.

The Census Bureau report also said that the distribution of income was changing, with higher income households gaining a greater share and lower income households receiving a smaller share.

This issue has been of concern to many and to me for a long time. As a matter of fact, it has been showing up

for a number of years. In fact, while I was chairman of the Budget Committee, I requested that the Congressional Budget Office study this matter, and that study is pending. We understand that it will be ready this fall. They will attempt to tell us why that phenomenon is occurring while the other positive phenomena that I have just indicated are moving in what appears to be the opposite direction.

The report contains good news about our achievements in lowering poverty and increasing American incomes over the last several years. We should be proud of that progress but we must also work to sustain it and where there are shortcomings, as I have indicated, we ought to see if it is our role to do something about it and, if it is, we ought to try.

THE SUCCESS OF THE NAVAJO ECONOMIC SUMMIT

Mr. DOMENICI. Mr. President, 120 years ago the legendary Navajo Chief Manuelito led the "Long Walk" from the Fort Sumner prison to Tohatchi, NM. This was the beginning of the Navajo Nation. Last Saturday, July 25, 1987, in Tohatchi, the Navajos began what I hope will be a rewarding and profitable second "Long Walk."

The challenge is appropriate. There is no question that the Navajo people and their leadership seek to improve their economic standing. The Navajo Nation has vast human and natural resources ripe for development.

On Saturday, I was honored to cosponsor the Navajo Economic Summit with Navajo Tribal Council Chairman Peter MacDonald and my good friend from Arizona [Mr. DECONCINI].

As I told the Navajo people and the summit participants, the second "Long Walk" is a challenging commitment to walk "out of poverty and into mainstream American opportunities for all Navajo men and women in the future."

This was the first such summit ever held among Indian peoples, based on an idea that I initiated with Navajo Tribal Council chairman, Peter MacDonald, in late March of this year. The Navajo Economic Summit was organized to identify and promote public policies and private initiatives to enhance economic self-reliance for America's largest Indian tribe.

I told the summit participants and the large Navajo audience that the "United States of America has gone through an industrial revolution and is entering perhaps a second industrial revolution where American prosperity is raised," and jobs of all kinds are created. But American prosperity has bypassed this island about the size of West Virginia, known as the Navajo Nation. It remains an economic island outside the American economic mainstream.

I reminded the summit that our national trustee policies toward the Navajos have been protective of their mineral resources for good reason. "Navajo leaders in the past have wanted to protect the Navajo people from exploitation," I said. "The history of trying to prevent exploitation has set in place an environment which is not conducive to the development of the private sector, because it was never intended to be."

"But I submit we will not succeed unless we come together, strive to make the environment on Navajo for business as close to that in non-Indian country as possible. That does not mean that we give up our tribal ways, it does not mean that we must give up our reservation. But, it does mean that we must use innovative and creative ways" to pool our resources, attract capital, and assure the private sector of a stable business environment.

The wonderful Navajo people can be trained in the art of entrepreneurship so they can "prosper as individuals do throughout America." Navajos "need not leave here to be businessmen and businesswomen." "All of this will require commitment, dedication, and change, and that is why we are here." "Let's get on with helping the Navajo people."

Interest and participation were high in Tohatchi. Five Senators, several Congressmen, two Governors, a number of prominent businessmen, and many high Federal officials attended. Their names and affiliations will be inserted in the RECORD at the end of this statement.

The dramatic setting featured a huge hand-woven Navajo rug—45 feet by 60 feet—as a backdrop. After a bicultural and bilingual—Navajo and English—blessing, plus my opening call for greater economic independence, we watched a video message from President Reagan.

The President reminded us that the 120-year-old trust relationship, "instead of fostering independence, the Government ended up doing just the opposite." He also told the business leaders present, "Today, your very presence at the Navajo Economic Summit is sending a message through corporate boardrooms across this country: The Navajo can be competitive also."

My good friend, Senator INOUYE, chairman of the Senate Select Committee on Indian Affairs, added a real spark of enthusiasm to the summit. Senator INOUYE had been initiated into the Navajo Tribe by an elder medicine man in a predawn ceremony on sacred Navajo land. When he told the Navajos that he could now call them "brother and sister," the crowd cheered.

Navajo Tribal Council Chairman MacDonald delivered an eloquent discourse about the need for new opportunity on his reservation. "For more than a century," he said, "commercial time has virtually stood still on the Navajo Reservation."

Chairman MacDonald reminded us that it is the Navajo youth "who have the most at stake by what we are here to do today." "The Navajo," he reminded us, "are an extraordinarily young people" with a median age of 18. Each year 3,000 Navajos finish high school and seek higher education or work.

The Navajo Nation chairman challenged the youth to state their visions of the future in an essay contest. The three winners all displayed an acute awareness of the need for new opportunity. I will submit their fine efforts for the RECORD after these remarks.

I would like to extend my heartfelt gratitude to Chairman MacDonald. His leadership was acknowledged many times during the summit, and with good reason. He organized an excellent day of activity and planning for the future benefit of all Navajos. I look forward to working with the chairman in his efforts to make this historic change of course for the Navajo Nation.

In our summary of the summit to the tribal council, Chairman MacDonald, Senator DECONCINI, Representatives NIELSON and KYL, and I highlighted the most vital decisions made.

The first is an issue I have strongly stressed for many years. Indian enterprise must be distinct and separate from Indian tribal government. In other words, the tribal government cannot and should not be the center of entrepreneurial activity. Separate corporations must be established. The business relationships must not flow into the tribal government. Business must be able to make decisions without the extra burdens of tribal government goals and objectives.

The second major finding of the summit is the clear need for tax incentives, capital formation, and Government procurement opportunities. I suggested a possible pilot demonstration program for the Navajo Tribe that would incorporate all of these vital elements. Such a pilot could include ideas from Senator INOUYE's Indian Development Finance Corporation proposal, Senator MCCAIN's Indian Economic Development Act proposal, and changes in the existing Indian Self-Determination Act and the Indian Finance Act. My idea would be a new Federal statute to promote private development on the Navajo Nation as a pilot example for all Indian tribes.

The third major finding of the summit is the immediate need to reduce the redtape that requires, for example, some 46 approval steps in each single tribal land lease approval. This is further complicated by the

Federal trustee's legal ability to add even more bureaucracy to this process. The Navajo Tribe under Chairman MacDonald's leadership, is working to simplify its commercial codes. The intent is to design the new code to be immune from every political whim. Stability will attract business.

A fourth major agreement at the summit is the need to establish a new framework for working with the States of Utah, Arizona, and New Mexico. The umbrella type compact for highway development, tourism, and marketing proposed by Governor Carruthers of New Mexico will be the model for pursuing common interests.

Robert A. Pritzker, president of the Marmon Group—a $3 billion international complex of corporations as diverse as mining, manufacturing, international marketing, and computer services employing about 27,000 people—made the case for the fifth and final major finding of the summit—the need for business to take a hard look at Navajo potential.

A self-described "hard-nosed businessman," Mr. Pritzker gave an excellent tone-setting address to the kickoff banquet in Gallup, NM. He outlined the key factors important to business and the fact that we did not gather for "an exercise in philanthropy." He stressed the importance of giving the Navajo Nation a chance to compete by asking business to bring its bottom line to the Navajos before deciding to locate overseas or south of the border.

If the Navajos "can be competitive," he concluded, "I will invest my dollars among the First Americans." I will ask that the text of Mr. Pritzker's remarks be printed in the RECORD for the benefit of all those who are interested in the challenge of bringing private enterprise to the Indian reservations of America.

The presence and active participation of our summit cochairman, Senator DECONCINI added a vital dimension of much knowledge and experience with the Navajo Nation. He knows the problems of the Navajos and was still able to offer a sense of hope for a tribe embarking on a new course.

Senator DECONCINI reminded us about the 40 percent of Navajos living below the poverty level. He also stressed the fact that one out of two Navajos seeking a job cannot find one. He expressed his pride in the fact that the Navajos were not asking for a handout or a new give-away program. "What they want," he said, "is a level playing ground, an opportunity to compete, an opportunity to be productive."

Senator BINGAMAN pointed out the "tremendous mineral resources, timber resources and a history of use of those resources to a very limited extent." He recommended more attention to this vital Navajo potential. But the most vital resource of all, he told us, is the "human infrastructure." He linked the building of this infrastructure to the health and education investments of the Federal Government. "In short," he summarized, "economic self-sufficiency needs to be our goal but in adopting that goal we cannot use it as an excuse to neglect or reduce our commitment to developing that human infrastructure."

Senator JOHN MCCAIN of Arizona discussed the potential and status of his proposed Indian Economic Development Act, better known as the "Indian Enterprise Zone" bill. This concept is an incentive package of employment credits, tax credits for construction and infrastructure development, accelerated cost recovery deductions, and small issue bonds. The zone would be designated for 24 years. He also described a vital process in his bill whereby the Secretary of the Interior would be able to resolve differences between tribes and businesses in the zone.

Senator MCCAIN also stressed the importance of stable tribal politics. He cited two important examples of binding contracts that were changed with the changing of tribal administrations. "We cannot have those kinds of things exist," he said, "and expect businessmen to locate on Indian reservations." He pointed out that "a strong and healthy economy is the best way to preserve and continue the Navajo culture and tradition."

Representative RICHARDSON, whose district includes the eastern portion of the Navajo Nation in New Mexico, was an active participant. He made the needed observation that the unresolved Navajo-Hopi relocation problems "drain efforts and attention which otherwise could be devoted to creating jobs for the Navajo people." He also drew our attention to the "very fine job that the wife of the vice chairman of the Navajo Nation, Johnny R. Thompson, has done to try to create a corps of Navajo women entrepreneurs" as a "key group" for future development.

Governor Carruthers of New Mexico was energetic in his commitments for better cooperation in highway building and developing tourism. He made an offer to exchange tourism staff for 6 months to improve communications and opportunities. He suggested investing State funds in ventures on the Navajo Nation, plus a joint marketing effort with the State of New Mexico.

The business community was very astute and frank. Company presidents and top executives came to the summit table from General Dynamics, General Motors, the Grabill Corp., the Marmon Group, and Rodale Press. Oliver Boileau, president of General Dynamics, stressed the positive 20-year experience his company has had with a 480-employee plant. The "exacting demand for quality, accuracy and consistent performance are nonwaivering," he said, and the Navajos "are dedicated to top performance."

Financial advice came from David Paulus, senior vice president of First Chicago Corp., and Takuro Isoda, chairman, Daiwa Securities America, Inc. Mr. Paulus discussed the spectrum of capital needs on the reservation and the fact that the decentralized nature of the reservation would require special attention. Mr. Isoda issued an invitation to Chairman MacDonald to seek capital backing in Japan, South Korea, and Taiwan.

Perhaps the most direct and heartfelt appeal came from famed designer Oleg Cassini. As president of Oleg Cassini, Inc., he stressed the simple and basic concept of ownership. Navajo enterprises should be owned by Navajos, he told a cheering crowd. He made an appeal for immediate action. "I believe that if an effort was made immediately to have a resort that was purely Navajo," he said, "the world would come here. You'd be surprised to know that in Europe they know more about the Indians than many, many Americans."

Eddie Basha, president of Basha's Market, has invested over $4 million on the Navajo reservation, and is launching another $4.5 million development in Window Rock. Mr. Basha stressed his belief in the Navajo people. "We have today approximately 300 Navajo members who are part of the Basha family of companies, and we are so proud of the cultural enrichment, and the cultural enhancement that we have gained from that association," he said.

The summit received national and international media coverage. The NBC and ABC television networks were there, as were representatives of the New York Times, the Christian Science Monitor, the Journal of Commerce, National Public Radio, the 9-million-circulation Japanese newspaper Yomiuri Shimbun, and the largest newspaper in Germany, the Frankfurter Allgemeine. Local New Mexico and Arizona coverage was also extensive, as represented by the articles I will submit for the CONGRESSIONAL RECORD.

New business ideas are already in the works. Government initiatives and changes are being studied. The summit managed to pull together some key players who can help to create a new atmosphere of "Navajo means business" on the reservation. The Navajo Tribal Council unanimously passed a resolution the afternoon of the summit. This resolution endorses the summit commitment to encourage more private business on the reservation.

In the next year, I expect to see new businesses started on the Nation's

largest reservation. In the next few years, I hope to see major changes in the relationship between the Navajo Tribe and its trustee, the U.S. Government. By no means do I advocate relinquishing our trust responsibilities. On the contrary, we are seeking ways to direct the Federal investment on the reservation into ways charted by the new Navajo leadership. The Navajo leadership wants to encourage—rather than discourage—private business activities on the reservation.

Mr. President, I would now like to share some of the press coverage of this historic event with my colleagues. I ask unanimous consent that the attached articles from the Independent, Gallup, NM, the Albuquerque Tribune, the Albuquerque Journal, the Christian Science Monitor, and the New York Times be printed in full in the RECORD.

I also ask unanimous consent that the winning essays on Navajo economic development which were prepared for the summit, be printed in the RECORD. The insights and hopes for the future by these young Navajos are a remarkable example of the new thinking inspired by the historic Navajo Economic Summit. Finally, Mr. President, I ask that the excellent remarks of Mr. Robert A. Pritzker, president and chief executive officer of the Marmon Group, the remarks of President Ronald Reagan, and the Navajo Economic Summit Participant List be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Independent (Gallup, NM), July 25, 1987]

NAVAJO SUMMIT KICKS OFF

(By Richard Sitts)

GALLUP.—Politicians, business leaders and journalists gathered together here Friday night and got the first-ever Navajo Economic Summit off to a galloping start.

At least 500 filled the brand new Chaco Convention Center Atrium at the Holiday Inn to share a buffet dinner and listen to a brief welcoming program.

The city of Gallup footed the bill for Friday's dinner and Mayor Edward Munoz gave the welcoming remarks.

Munoz presented a fishing hat to Ralph Watkins, one of the commissioners on the Navajo-Hopi Relocation Commission, to give to Arizona Gov. Evan Mecham. Mecham's wife is ill and he did not attend.

Munoz also offered Watkins a deal; "I won't believe what I read in the newspapers about you if you don't believe what you read about me."

Master of ceremonies Boe Bowman explained to visitors the message of traditional songs that were sung. Ray Carlos Nakai provided soothing Navajo flute melodies during dinner.

Congressman Bill Richardson, D-N.M., spoke briefly, saying that a partnership between the private sector and the Navajo Nation will be explored at great length over the weekend.

Flying in from Chicago, Richardson said he sat next to fashion designer Oleg Cassini, who told him he could use some help with his clothes. Cassini also is attending the summit.

Friday evening's featured speaker was Robert Pritzker, president and chief executive officer of the Marmon Group, an international complex comprised of 60 corporations.

Pritzker said he remembered when he first heard about the Navajo Tribe.

"I wondered if a friendly takeover was possible," he said.

"I was surprised that the Navajo Nation was untouched by the forces of free enterprise. I thought every inch (of America) had been touched by McDonald's and catalogued by Sears," he said.

Looking for successful businesses means searching out locations that offer the best natural and man-made resources, he added.

Pritzker mentioned a recent trip he took to Singapore, saying the people there were workaholics who worked for less than half of the American minimum wage.

He said American industry, however, is not looking for the cheapest labor, but "the best workers we can find at the best price."

Industries are looking for a stable political environment, Pritzker said, adding that "taxes are always a factor in today's competitive environment," alluding to the tax breaks that the tribe can offer.

Pritzker said Navajo Tribal Chairman Peter MacDonald's message is "if business can make a profit here, then Navajos can profit too."

"Free enterprise has not failed the Navajo people. We have, by creating an imaginary line around the Navajo reservation," Pritzker said.

He issued a challenge to all businesses and industries to hear out the Navajos' bottom line before moving to another location.

"We do owe these people this much and nothing less," Pritzker said.

After the program guests and participants mingled freely, making introductions and shaking hands like old friends.

The dapper Cassini was perhaps the most popular guest in attendance, signing autographs for nearly every woman in the room.

[From the Independent (Gallup, NM), July 27, 1987]

SUMMIT SUCCEEDS—MACD

(By Richard Sitts)

TOHATCHI.—Saturday was the Navajo Nation's day in the sun, though the morning was spent under bright theatrical lights and the afternoon behind closed security guarded doors.

The first-ever Navajo Economic Summit, hailed as a historic occasion, was considered a success by its participants.

"I feel very good in my heart that the summit has been a success," said Navajo Tribal Chairman Peter MacDonald. "The participants agree that today's undertaking has been highly successful."

Though the summit offered little more than talk, it was positive talk. Participants insist the results will come later.

In the post-summit press conference, MacDonald read from a prepared statement, "If our meeting today had achieved no more than to provide a high-level forum for the frank exchange of views, summit participants would consider it a success. But it did much more."

MacDonald then outlined four issues on which participants and the Navajo Tribal Council agreed:

First, is that Indian enterprises can and should be separate from tribal government administration.

"Our concentration must be on strengthening Navajo enterpreneurship. Navajo ownership of Navajo enterprises is our goal," MacDonald said.

However, not a single Navajo business owner was invited to participate in the summit conference and perhaps as a result, only a few attended the event.

The only area businessman on the list of participants was Eddie Basha Jr., chairman of the board of Bashas' Markets, Inc.

Using federal tax incentives to reward businesses that locate in tribal "enterprise zones," creating an Indian finance development bank, and encouraging U.S. defense contractors to subcontract projects to Indian businesses were other points of agreement.

Thirdly, eliminating unnecessary red tape and bureaucracy from the tribe's commercial laws and seeking assistance of an "action group" of outside business experts is another goal.

And a strengthened framework for state tribal relations is "absolutely essential," MacDonald said. "This will help both parties enormously, to pursue our regional commercial interests," he added.

"The summit participants have not solved, or attempted to solve every obstacle, but the participants have identified those obstacles," MacDonald said.

Creating "a self-sustaining, job-generating reservation private sector" is essential, participants agreed, and it also is essential to increase Navajo per capita incomes to the level of surrounding states.

MacDonald said an economic summit action group will begin working on suggestions derived from the summit.

The tribe is now talking with six companies, three seriously, about locating on the reservation, MacDonald said during a question and answer session following the post-summit statement.

During the press conference MacDonald was flanked by co-hosts Sens. Pete Domenici, R-N.M., and Dennis DeConcini, D-AZ.

A detailed question dealing with environmental protection regulations on prospective reservation industries was met with a prolonged silence and critical looks among the three, indicating the subjected had not been covered during the afternoon session.

Domenici said that reservation industries would be subject to the same environmental regulations as the states and that the days of "smokestack industries" are over.

"I believe that Chairman MacDonald and the Navajo people will succeed. Businesses will come to the reservation," Domenici said during the press conference.

What only a few months ago was a dream is now a reality. Domenici said, claiming that "thousands" of young Navajo are going to have jobs over the next decade.

For this to happen, all the Democratic red tape must be eliminated in order to keep the private sector separate from the tribal government, Domenici said.

"We must make it possible for the Navajo people to get in business and prosper," he added.

Sen. DeConcini also spoke highly of the summit.

"What we had truly was a real beginning of a new direction for the development of jobs on the reservation," DeConcini said. "I could witness, feel and see that the direction is moving in the right direction."

He said short term goals are to see things change "in the very near future," and a long term vision is to establish an offensive environment for businesses on the Navajo Reservation.

[From the Albuquerque Tribune, July 24, 1987]

NAVAJOS LOOKING TO LURE INDUSTRY

TOHATCHI.—After years of building barriers to keep their resources from being exploited by big business, the Navajos now are trying to lure industry to their reservation by promoting those same resources.

A Navajo Nation Economic Summit began here and in Gallup today with Indian, government and industry leaders meeting to discuss ways the tribe can improve its economic position and that of its members.

Tribal Chairman Peter MacDonald said private sector investment was discouraged not by intention, but through some of the issues the tribe was facing at the time.

"We created barriers to keep those energy companies at a distance," he said. "Consequently, tribes have created bureaucracies to slow down exploitation attempts. But it also slowed attempts by other industries to locate on the reservation."

Business leaders will meet with tribal, federal and state officials to discuss what changes are needed to attract industry to the reservation.

Sen. Pete Domenici, R-N.M., said for years the tribe had regulations that inhibited such growth. This is the first time in 15 years of working with the Navajos that the tribe's leadership has sought to set a firm policy on economic development, Domenici said.

[From the Albuquerque Journal, July 25, 1987]

JOBS FOCUS OF NAVAJO CONFERENCE

(By Susan Landon)

TOHATCHI, NM—The day before the Navajo Economic Summit was scheduled to convene in this small town on the eastern edge of the reservation, visitors at the Tohatchi Chapter House on Friday were greeted by this sign: "Sorry, No More Jobs."

The sign is a reminder of the big talks awaiting participants in today's summit at Tohatchi High School, about 30 miles north of Gallup.

A high-powered group, including the governors of New Mexico and Utah, is scheduled to meet with tribal officials to find ways of bringing more jobs to the nation's largest Indian tribe. Gov. Evan Mecham of Arizona on Friday canceled his trip because his wife, Florence, became ill, the governor's spokesman said.

Among the other participants are U.S. Sens. Pete Domenici, R-N.M., Dennis DeConcini, D-Ariz., and the officers of major corporations such as General Dynamics and General Motors.

In several speeches, tribal Chairman Peter MacDonald has called the Navajo reservation America's "last economic frontier." Unemployment ranges from 30 percent to 70 percent across the reservation.

The rate in Tohatchi is about 40 percent. Several short-term jobs that had been offered by the Tohatchi Chapter House earlier in the summer had already been filled, prompting chapter Manager Lee Rodgers to put up the "no jobs" sign.

"We're hoping the summit will amount to something," Ms. Rodgers said, as she grabbed a quick hamburger lunch in her office.

"But I know the summit will only be a minor cornerstone in economic development. It will require lots of paperwork and working through the bureaucracy before we will ever see a company move out here."

Businesses trying to set up shop on the reservation have been faced with as many as 125 different tribal requirements before they received a site lease. MacDonald has promised to cut that red tape.

The Tohatchi Chapter House, located along the town's dusty main road, was filled with activity Friday.

Men nailed tree branches together outside, making a graceful lattice that was then covered with leaves. Underneath their creation the earth was cool—a spot that will serve as a makeshift restaurant for some summit visitors. The town's women have prepared a traditional feast that includes mutton and fry bread.

Meanwhile, the gym at Tohatchi High School was being decorated with rugs and plants by tribe members Friday afternoon. The gym will be the site of this morning's opening general session at 8 a.m.

Tohatchi was chosen as the summit site because of its modern high school facilities and because Domenici wanted the summit to be held in New Mexico. The summit was Domenici's idea.

Participants are scheduled to watch a videotaped message from President Reagan recorded especially for the summit.

Later in the afternoon, business and political leaders will meet with MacDonald in closed session to discuss specific ways of bringing jobs to the reservation.

[From the Albuquerque Journal, July 26, 1987]

TRIBAL CHIEF SEEKS MORE JOBS—LEADERS AT NAVAJO ECONOMIC SUMMIT OFFER IDEAS FOR ENDING POVERTY

(By Susan Landon)

TOHATCHI.—Calling the Navajo Nation "America's economic orphan," tribal Chairman Peter MacDonald said Saturday that his tribe must lure jobs to the reservation to overcome poverty and despair.

"For more than a century commercial time has virtually stood still on the Navajo reservation," MacDonald told government and business leaders at the first Navajo Economic Summit. "As wards of the federal government, Navajos were never exposed to the risks or incentives of the marketplace."

At the conclusion of the all-day summit, MacDonald and the Tribal Council unanimously agreed to try to make the reservation a hospitable home for the private sector.

Too often private businesses have involuntarily become ensnared in tribal politics when they've tried to set up shop on the reservation, Sen. Pete Domenici, R-NM, said. The tribe agreed to try to separate private business affairs from tribal government as much as possible.

"Never before have I felt this kind of unity and enthusiasm on the reservation," said a happy Domenici, who came up with the idea for the summit.

The first economic summit held by an American Indian tribe got a lot of attention.

Television lights flooded the Tohatchi High School gymnasium as the governors of New Mexico and Utah and the chief executive officers of some of America's largest corporations gave suggestions for improving the Navajo economy.

Reporters from the 9 million-circulation Japanese newspaper Yomiuri Shimbun and the largest newspaper in Germany, the Frankfurter Allgemeine, were among journalists at the meeting.

There had been suspicion among some Navajos that the summit would just be a "media event."

But Sen. Daniel Inouye, a Hawaii Democrat who chairs the Senate Select Committee on Indian Affairs, gave the summit high marks.

"The summit is already a success," Inouye said during a break in the meeting. "The fact that you can get two governors, five U.S. senators and several top CEOs in one place is quite an accomplishment."

Inouye said the summit brought international attention to the economic problems of not just the Navajos, but all Indians.

The meeting also brought a proposal from New Mexico Gov. Garrey Carruthers. He asked the Navajo Nation to sign an "economic treaty" with the state that would spell out how the two governments can help each other.

For example, Carruthers offered to "loan" two members of the New Mexico Economic Development and Tourism Department to the tribe for six months in an attempt to boost tourism on the reservation.

The Navajo Nation has a long, difficult task facing it in attracting businesses that are also being lured by much more prosperous parts of the U.S., summit participants agreed.

"One of the major impediments to business development is the vagaries of tribal politics," Sen. John McCain, R-Ariz, said.

Specifically, McCain criticized the MacDonald administration for recently challenging a contract with a private firm that wants to set up a marina on Navajo land in Utah. MacDonald has said the contract, agreed to by the administration of former Chairman Peterson Zah, shortchanges Navajos.

However, McCain said, "We can't have these kinds of things happen and expect businesses to locate on the Navajo reservation."

The summit opened with a videotaped message from President Ronald Reagan.

"Yah ta hey," the president said, offering the traditional Navajo greeting.

He praised the summit as a move away from dependence on the federal government by Navajos.

The president told the business leaders: "Today, your very presence at the Navajo Economic Summit is sending a message through corporate boardrooms across this country: The Navajo can be competitive also."

MacDonald told the crowd that he hoped the summit would mark a "rebirth" of the Navajo Nation. He noted that Tohatchi, located 30 miles north of Gallup, was the place where a rebirth of the Navajos began 120 years ago following the tribe's imprisonment at Ft. Sumner.

The legendary Navajo chief Manuelito was from Tohatchi, and lead his people from "concentration camp" conditions at Ft. Sumner to Tohatchi.

"We have returned in the 120-year-old footsteps of our forefathers, to take stock of our situation, to confront our economic deprivation and to plan for our economic future," MacDonald said.

The president of General Dynamics said the high quality of the Navajo workforce has been a well kept secret. Oliver Boilean, head of the firm, said General Dynamics is happy with the output of its 20-year-old plant in Ft. Defiance, Ariz.

"The quality of work performed on our electrical systems here has matched or exceeded the quality of work at our other plants," Boilean said.

Takuro Isoda, chairman of one of Japan's largest securities firms, offered to talk to his associates in Japan about the possibility of inviting MacDonald to his country. Isoda said MacDonald could explain to the Japanese firms the benefits of bringing jobs to the Navajo Nation.

[From the Christian Science Monitor, July 27, 1987]

NAVAJOS ENVISION AN ECONOMIC MIRACLE—SUMMIT ON TRIBAL DEVELOPMENT DRAWS HEAVYWEIGHT SUPPORT

[By George Hardeen]

TOHATCHI, N.M.—While much of rural America suffers from loss of business and industry, the Navajo Indian Reservation has never had much.

Traveling across the huge reservation, one is impressed as much by the emptiness as by the surrounding desert beauty. For about half of the 160,000 Navajos living here, the openness of the landscape translates into unemployment and lack of opportunity.

On Saturday, however, the Navajo nation launched a new initiative to fill some of the emptiness. At an "economic summit" here, Navajo chairman Peter MacDonald participants in exploring ways to make the reservation more attractive to industry. Sens. Pete Domenici (R) of New Mexico and Dennis DeConcini (D) of Arizona co-hosted the summit.

The Navajo Economic Summit brought together some 40 corporate executives and top state and federal leaders to analyze how to put the tribe's large, underemployed labor force to work.

Supporters of the summit ranged from operators of small reservation mobilehome parks to President Reagan, who sent a videotaped message congratulating Navajo leaders for sponsoring the event. Mr. Reagan said it took courage for the tribe "to set a policy that, for the first time, says a partnership with the private sector is the future."

While Washington's trust relationship with the Navajo Tribe is almost 120 years old, the President said, "instead of fostering independence, the government ended up doing just the opposite."

Mr. MacDonald, who returned to office in January after a four-year absence, has made economic development and the creation of jobs his administration's top priority in order to fight his reservation's 30-to-50 percent unemployment rate.

For months, MacDonald has crisscrossed the United States meeting the chiefs of America's largest companies, encouraging them to "bring your bottom line to Navajo" before locating a new factory overseas. He said he wants to "beat the pants off" the tribe's competition in Taiwan and elsewhere.

Senator Domenici, who said that for 15 years he had watched the Navajo nation struggle in political turmoil, praised MacDonald's leadership and termed the summit "a miracle."

A controversial figure who previously served 12 years as tribal chairman, MacDonald has promised his people he will create "1,000 to 2,000 jobs per year." He says he wants to see large segments of his tribe's young population transformed into Indian entrepreneurs, service professionals, and industrial workers.

But starting practically from scratch, with but a handful of companies composing the current Navajo private sector, the obstacles the tribe faces are formidable. Foremost is its rural obscurity. The 25,000-square-mile Navajo reservation is located mostly in the northeast corner of Arizona, comprising about one-sixth of the state's land area. It also lies across substantial portions of northern New Mexico and southern Utah. Yet it is not well-known to industry leaders.

"If they are patient enough," said Takuro Isoda, chairman of Daiwa Securities America Inc., "they'll have a great future, I believe." He said the reservation's clean air and water and its reputation for excellent craftsmanship is what is most attractive to his company.

While the reservation is isolated from any major city by hundreds of miles, summit participants touted its centralized location as ideal to reach approximately 20 million consumers in Phoenix, Albuquerque, Denver, Salt Lake City, and Los Angeles.

New Mexico Gov. Garrey Carruthers said he would see if highway and development funds from his state could be used to assist the tribe. He suggested a six-month exchange of state and tribal tourism personnel.

Another participant in the summit, renowned designer Oleg Cassini, declared that if the Navajo built a resort it would become world-famous.

Sen. Daniel K. Inouye (D) of Hawaii, said legislation to create an Indian Development Bank "would set up the mechanism for guaranteeing loans that are made by other banks.

"The federal government is watching this summit meeting," said Senator Inouye, "and all the other Indians are watching. If this works, this will be the solution to all the problems."

At this point the reservation's private-sector economy consists primarily of the few stores in its seven major communities of a few thousand people each. State, tribal, and federal jobs provide the bulk of employment. Navajos drive every weekend to thriving towns surrounding the reservation's borders, where over the course of a year they spend millions of dollars.

Layers of federal and tribal bureaucracy have blocked many would-be reservation businesses and discouraged innumerable would-be Navajo entrepreneurs. According to figures presented by Navajo leaders at the summit, 47 various kinds of approval, taking years to acquire, are needed for even a small business to begin.

Sen. John McCain (R) of Arizona, who three years ago first sponsored a bill to create "enterprise zones" on Indian reservations, said that in exchange for employment and tax credits for industry, tribes should be willing to come up with a way to quickly resolve conflicts when they arise, as they frequently do.

He said business would not be interested in moving to Indian reservations if tribes could not dispense with the "vagaries of tribal politics."

His comment referred to the Navajos' current problem with a developer who last week said he would sue the tribal government because it is stalling development of a $30 million marina and resort project on Lake Powell. The former Navajo administration agreed to the development.

[From the New York Times, July 27, 1987]

NAVAJO SEEKS INDUSTRIES

GALLUP, N.M., July 26.—The chairman of America's largest Indian tribe urged private businesses to "bring us your bottom line" before pursuing business ventures in developing nations.

The chairman, Peter MacDonald, said at a weekend conference here that Federal budget cuts have made the Navajo, with 200,000 members, "America's economic orphan." The meeting, sponsored by Senators Pete V. Domenici, Republican of New Mexico, and Dennis DeConcini, Democrat of Arizona, was attended by politicians and executives.

Besides budget cuts, the Navajo reservation—16 million acres in Arizona, New Mexico and Utah—has also been affected by a depressed energy market and a shift in an economic base that once relied on raising sheep.

According to the Census Bureau, 40 percent of Navajos, live below the poverty level. The Navajos, Mr. MacDonald said, are hoping for prosperity through large-scale private-sector development.

The Indian Economic Development Act, introduced by Senator John McCain, Republican of Arizona, would create enterprise zones that offer Federal and tribal tax incentives for businesses locating in them.

THE NAVAJO NATION—ESSAY WINNERS

1st place—Kimberly Ross, daughter of Dr. and Mrs. Kenneth Ross, Student at University of New Mexico—Gallup Branch.

2nd place—Lisa Jones, Student at Navajo Pre-College Program; Holbrook, Arizona, Holbrook High School.

3rd place—Michelle Dotson, daughter of James Dotson and Rebecca Martgan, Student at Arizona State University, Tempe, Arizona.

KIMBERLY ROSS

IDEAS FOR CONSIDERATION

1. Private Partnership Program: This idea deals with a four why partnership between individuals; local banking or lending institutions; the Navajo Nation and the state and/or Federal Government. Individuals would be expected to financially capitalize 20% of the original operating costs for any proposed business through personal resources and/or bank loans with interests capped at no more than 10% on borrowed funds. The Navajo Nation would provide 30% of the required capital as a loan to be paid off from capital net profits of the proposed business over a period not to exceed 30 years. The Federal Government in turn would contribute up to 50% of the initial investment and operational capital needed for the first three years of the business venture as a grant. The types of small businesses eligible for such a private partnership start up would be:

a. Fast food franchize operations, such as Pizza Hut, MacDonald's, Wendys, Burger King, Long John Silvers, Taco Bell, Dunkin Donuts, Kentucky Fried Chicken.

b. Started under this shared initial investment concept would be small retail/whole sale outlets such as Auto Motive Part Stores, Midas Muffler Shops, Insta Tire, Speedy Lube, etc.

c. Franchized clothing and apparel stores and outlets for major clothing manufacturing businesses such as Levi Strauss, Wrangler, Lee, etc.

d. Hardware and small appliance convenience stores.

e. Home Improvement Centers, inclusive of self-help style pre-fabricated pre-designed homes where the initial cost is for a basic floor plan and structural kit to be provided by the home center and the finishing work

to be completed by the home owner. There will be minimal labor union intervention to inspect and approve construction.

There are numerous large companies and corporations which could be enticed to work with private entrepreneurs to set up such businesses.

2. Poultry Ranches: This idea deals with capitalizing on a commodity which is basically void of local competition. Schools, hospitals and the general public purchase large quantities of poultry products each year. These goods are produced in adjacent states, basically off of the Navajo Reservation. Most, if not all, of these products must be treated with preservatives and trucked to local outlets. Chickens, ducks, geese and turkeys need feed, water, gravel, and calcium all of which are readily available. Also, there are large poultry farms in Texas which can be contacted to ascertain specifics of operational management. If conditions yield positive indications for such an endeavor on the Navajo Reservation, this can be a good investment and means for creative jobs for the local people. With successful operation there can be additional operations involving the use of feathers for making pillows, comforters, sleeping bags, etc.

3. Silicone Byproducts: The Navajo Nation is rich with sand. A major component of sand is silicone. When heated to sufficient degrees, silicone can be extracted and used to make many useful byproducts like windowpanes, car windows, ceramics, glassware, stained glass ornaments or useful household items as well as other items. Efforts should be made to test the quality of sand and specific technologies required for extracting the silicone base and other ingredients needed to make glassware. This could be started on a small pilot scale evolving into larger operations.

4. Small Family Fruit and Vegetable Farms: The Navajo Irrigation Project could be modified to permit lease assignments to individual families to farm portions of the land on a pilot basis. Small vegetable farms, fruit farms, etc., could provide a stable economy for these families and defray purchase of food commodities since they would have the opportunity to consume personal products they have labored to produce. It is also recommended that the Navajo Tribe look at the possibility of elimination of the Federal Law dealing with Congressional Restriction prohibiting Federal employees from dealing with Indians.

Even efforts to procure congressional exemptions for Federal Indian employees to work with Indian groups would be beneficial to the Tribe. This would permit an incentive for Federal Indian workers to become motivated to pursue private businesses which would add to the overall beneficial economy of the Tribe.

LISA JONES

An economic plan to improve the Navajo Tribe's economy would cost a lot and it would involve a big sacrifice but it would be very beneficial to us in our future.

Among several important factors that need to be changed to help the economy would be to increase the businesses or industries across our nation. This would change most of the other problems of the nation. The unemployment rate would decrease and productivity would increase. We will also learn to make the most of our leisure time.

When the industries and businesses are developed, there would be more emphasis on education for all of our people including younger students, undergraduates, graduates and even the elderly. The industries can also put more support into advanced educational methods for us. The value of this education will increase and continue to keep our nation strong. Besides, these examples, other special programs could be developed and even scholarships could be made available and would give all the people an incentive to gain even more knowledge. By taking away some of the leisure time of the people and putting it into good use as in the industries, which are to be developed, the alcoholism problem of our people would also be decreased. We could also encourage the people in this category to help our economy and still, at the same time, try to help them deal with their problems, too.

By developing these new industries and businesses, some of our nation's basic problems could be solved. We can economize on the funds provided by the Government to use to build up the industries on the Reservation. We can begin our own industries using our own natural resources such as coal, agricultural goods, traditional jewelry and art, and even our best natural resource—our people. This can be done through small shops where the outside people, like tourists, can be easily attracted to shop. We could be our own producers and distributors.

We could also build more shopping centers, or other profitmaking businesses such as recreation centers, small teen-age centers or hangouts, day-care centers, etc.

I hope that the thoughts and suggestions that I have put into typing to help our nation's economy will help us and that you, our Honorable Chairman, would give them due consideration.

MICHELLE DOTSON

IDEAS OF THE ECONOMIC FUTURE OF THE NAVAJO NATION

The Navajo People, as history notes, have endured countless hardships. An example of just one hardship would be the Long Walk. Our people were forced off their land at the hands of the government. Many lives were lost due to starvation and disease. Additionally, we've faced racial discrimination in the past, and in many instances, still do today. Presently, we are faced with the very emotional, frustrating issue of the Navajo-Hopi land dispute. Nevertheless, the Navajo People, have had the ability to overcome many obstacles to become a major Indian tribe in the United States. Furthermore, I feel that because we are a strong nation, we have the ability to become a leading industrial area, as well as, the most powerful tribe, economically, in the United States.

With visions of power and influence, I feel that the economic future of the Navajo Nation depends on a variety of important objectives. One objective, for example, would be to provide land to various industries that want to come onto the reservation. Secondly, in addition to the promotion of industrial development, we must also promote community businesses. Thirdly, the Navajo Tribe must set and enforce regulations regarding environmental protection. Lastly, housing should be provided for both Indians and non-Indians.

With the lack of adequate jobs, and high unemployment on the Reservation industry, of any kind, should be welcomed. However, I feel that in order to promote industry onto the Navajo Nation, the Tribal Council must be willing to set aside some land that would enable various industries to easily move onto the reservation. But there should be an important condition that tribal members will be employed and they will receive all the fringe benefits other employees receive outside of the reservation.

In addition, Community businesses should also be a main objective for the Navajo leaders. I feel that the Navajo Tribe has too much influence on what the small businessman does. To attract the development of community businesses, we should loosen some of the insignificant regulations involved in starting a business. The small businessman is a very important part of the economic future of the Navajo Nation. We should be giving assistance to the small businessman in every way possible, rather than preventing his efforts or putting up obstacles, which is, after all, defeating our very purpose at economic development.

If industries are going to move onto the reservation, the Navajo Tribe must set and enforce environmental protection regulations on all pollution causing industries. This will prevent excessive air pollution, illegal dumping of toxic waste products, and water pollution.

Lastly, adequate housing must be provided for people on the Reservation. There should be also the option available to buy the home, for both Indians and non-Indians.

Granted, many other areas need to be also taken into consideration, I feel that the four objectives I mentioned-setting aside land for industries to move onto the reservation, making community business a priority of the Navajo Tribe, setting and enforcing environmental protection regulations, and providing adequate housing—are among the most significant ones.

Overall, the Navajo Nation does have the ability to become a leading industrial area. However, much detailed planning, hard work, and especially communication is going to be the basis of what the future holds economically for the Navajo Nation.

A VIEW FROM THE PRIVATE SECTOR

(By Robert Pritzker, CEO)

Nobody likes sitting through dinner speeches, much less giving them, but I jumped at the chance to address you tonight. Not just because being the first speaker at a summit is a tough honor to pass up . . . but because the subject of this summit is one no one should pass up.

Not long ago, I was just another Chicago-based executive minding my own business, the Marmon Group, of which I am President, is an international complex of some 60 corporations which do business in areas as diverse as mining, manufacturing, international marketing and computer services. In 1986 our combined revenues neared $3 billion and we employed approximately 27,000 people in the United States and in many countries throughout the world.

I guess I am what in the Lexicon of American industrial history has come to be known as a hard-nosed businessman. Well, I never thought of myself as that, but our company's success means there must be some truth.

So, it came as quite a shock one day when this hard-nose was pinched, figuratively speaking, by a good friend of mine, Tom Miner. Tom heads a Chicago-based association of CEO's called the Mid-America Committee. He has travelled the world opening new doors for American business.

And Tom, that day, brought to my attention that—for reasons beyond my comprehension—a substantial part of this great

country had somehow gone untouched by the forces of free enterprise.

Thus, began my introduction to the Navajo Nation. It also began the initiation of someone who believed that every inch of America has been fed by MacDonald's, and catalogued by Sears, and credited by MasterCard . . . to the fact that a substantial slice of the Southwest had managed to escape the mark of the markeplace.

I can only tell you that I was profoundly shocked to learn that a land the size of the state of West Virginia . . . with a population nearing 200,000 people . . . right in the middle of a Sunbelt market of about 20 million consumers . . . had managed to elude the laws of supply and demand, risk and reward, assets and liabilities and profit and loss, for so long. My initial instincts were, of course, totally innocent: I wondered whether a friendly takeover was possible.

And then, I met Peter MacDonald, and I learned what many of you have known longer than I—how truly wondrous and unique the Navajo Nation is in the history and the present day reality of the United States of America.

Chairman MacDonald, it's not in my nature—nor that of most businessmen—to speak in grand generalities or sweeping propositions, but I'll make an exception tonight. I'll say that I am very, very proud to welcome all of you to the first gathering of its kind in this country.

A summit gathering of leaders from federal, state and tribal governments and from our private sector. A summit called to focus top-level attention on the economic life of a nation within a nation and to forge an historic and productive partnership.

We'll talk about the challenge which faces us all day tomorrow. But for now, let me state it as simple as possible:

The Navajo Nation is the largest Indian tribe in this land. Since its recognition by treaty 120 years ago the Navajo have enjoyed, on paper, certain protection for their health and against hunger . . . for their land, and against encroachment on their traditional rights and resources. And they have been protected against the risks and rewards of the private sector.

I hope Chairman MacDonald and the other Navajo officials in this room will indulge my saying that in travelling across America, no where have I ever seen an area so large and so clearly delineated by the absence of a self-sufficient private sector. To the south 340 miles is Phoenix . . . to the east 160 miles is Albuquerque, the most livable city in the U.S. . . . to the west 500 miles away is Los Angeles . . . and the same distance to the north lies Salt Lake City. The compass needle spins literally above us . . . and, it would appear, unaware of us. One hundred twenty years of progress and change . . . of frontier development, urban migration, tourism explosion, high technology incubation, the rumble seat, the bucket seat and the five-way seat . . the prop, the jet, the rocket . . . the tube, the transistor, the chip . . . the radio, the TV, the PC . . . the vaccine, the anti-biotic, the light bulb, the laser . . . have transformed this nation from coast-to-coast and north-to-south. While carving out a land the size of West Virginia and declaring:

You are beyond the bounds of the American dream.

You are protected from the American dream.

You are saved from the risks and rewards of the free marketplace.

And, thus protected, you shall look to us, and depend upon us, forever.

After meeting Peter MacDonald, I must admit that for the first time, I thought about the fact that as an American, albeit a Midwest American, I was part of a heritage of a nation which promised another nation, "trust us, and we will do what is best for you."

I am here today because of that promise, and what it means to me personally. And I know many of you are here today for the same reason.

Let's not be hypocritical.

Let's not be fatuous.

Let's be brutally, candidly honest.

If business does not make money it won't be in a business long. And it won't pay wages. So, to ensure our viability we try to calculate the potential risk and reward. The higher the potential return on our investment, the more the venture attracts us. The greater the risk relative to that return, the less likely we are to make the investment.

And let's also candidly admit that companies like each of yours, suffer no shortage of proposals. Every state promotes its competitive niche, and every country advertises its comparative advantage. Other nations across Latin America, Asia and the Pacific Rim offer wages a fraction of our own U.S. minimum wage of $3.35 an hour.

Long tax holidays are standard fare . . . as are free worker training, housing for executives, factory buildings and other essential prerequisites of business, location and expansion. One governor recently put in the hands of a would-be investor a bank book with a $15 million balance, explaining you know how to apply this to your bottom line better than we do, so go to it. That sort of talk goes on . . . and that's the competition out there, enticing the private sector today.

Make no mistake. Those of us who are in business go where we can survive. We will go where our costs will make us competitive. The American consumer demands top value, defined as the best quality at the lowest possible price. If we don't give it to them, our competitors surely will. And that means searching out those locations which offer us the very best package of natural and man-made incentives we can find, often anywhere in the world.

Ten days ago I was in Singapore being romanced by the Economic Development Commission of that country.

Beside all the incentives they offered, they showed me a vocational training school in which they had the most modern equipment I have ever seen in a school, such as vision-directed robotic welding, artificial intelligence, and the like.

Their students attended 44 hours a week of class plus significant homework, and then went 48 weeks per year. The academic standards were high, and these workaholics will work for less than half of our minimum wage. That's a challenge but we are here in America—so what do we look for:

We look for the availability of an appropriately skilled labor pool. The cheapest labor?—No. The best workers we can find at the best price?—Yes, of course, because that's what the consumer expects of us.

We also look for market access. That means adequate, assured transportation systems. It also means minimizing barriers to those markets in the form of tariffs, quotas and otherwise. It also means selecting locations based on proximity to our consumers.

We look for availability of land, resources and utilities. Rarely do we site a new plant without making sure that there is room to grow, and abundant raw materials to work with. Existing plant facilities are a definite attraction.

And we look for a variety of man-made incentives, too. Taxes are always a factor. In today's competitive environment, not only are we accustomed to finding complete exemption from state or local property or income taxes for up to five years or more . . . we are being trained to expect tax breaks above and beyond that which we can apply to profits earned on existing operations.

We also look to the availability of innovative financial packages to develop our new facilities, and to a regulatory environment which goes out of its way to encourage our arrival, rather than one which, by its apathy or weight, inhibits progress. A stable political environment is a sine-qua-non. And only in extremely rare and compelling cases will we invest our own capital without adequate insurance against political or other man-made risks.

Finally, we scrutinize the quality of life that awaits us. We look for a hospitable infrastructure. We expect the taxes we pay and our employees pay, to fund schools and medical facilities and recreation and entertainment, and police and fire protection and roads and other basic elements of a commercial infrastructure. We do not expect, except in the rarest of cases, to pay for these ourselves.

These are not the ravings of a spoiled corporate brat. These are the simple facts of modern day commercial reality. And as much as any business executive believes in Navajo, he or she will continue to be guided by shareholders' legitimate demands that our capital travels where risk is minimized and reward is greatest.

We are not here in an exercise in philanthropy. If I were a Navajo I would be suspicious of corporate philanthropy. The first time the company has a bad quarter, they may not be so reliable. However, if the corporation feels its best opportunity is on the Navajo Nation, then a bad quarter will improve your situation.

We are here because we share a vision of the Navajo Nation as a business location potentially competitive with any in the world.

The intrinsic value of the Navajo Nation to business has virtually nothing to do with altruism. It has everything to do with good business sense.

Here is a land base of 25,000 square miles . . . as varied and inviting as any of you will find in this country.

Here are natural resources unmatched in their scope and accessibility. From critical minerals like coal and oil and natural gas, and priority rights to water, and timber and agricultural lands. Navajo is naturally endowed with a wealth of manufacturing.

The Navajo workforce has been famed for generations for the details and precision of their weaving, their jewelry, basketry and pottery. The same detail is reflected in NASA space suits made by Utah Navajo Industries in Montezuma Creek, and in the precision military hardware turned out by the General Dynamics factory at Fort Defiance, Arizona.

And most fundamentally, the willingness of the Navajo Tribal Government to do everything in its power to make its environment attractive to business. The attitude of the MacDonald-Thompson Administration is simply stated—if business can make a profit here. Then Navajo can profit too . . . in employment for tribal members, and in economic growth and development.

With this in mind, I urge you to sit back, enjoy your coffee and the camaraderie of the evening . . . for early tomorrow morning

the real challenge began 120 years ago, the Navajo were a self-sufficient, prosperous people. They attended abundant herds of sheep. They farmed millions of acres of fertile lands and knew no physical or economic boundaries. They exchanged much of those lands . . . and as it turns out, their natural state of economic independence . . . for our promise not to sacrifice them to our own economic ambitions.

The free enterprise system hasn't failed the Navajo people. We have—for forming an imaginary line around the Navajo reservation and declaring the marketplace not dare enter within.

In the spirit of correcting that historic injustice, I would like to conclude tonight by issuing a challenge to every bottom-line minded businessman in this room, as well as to those who will read or hear about what we accomplish at this summit.

And that challenge is simply this—before I invest another dollar outside this country . . . before I determine that I have maximized my return and minimized my risk elsewhere . . . I will bring my bottom line to Chairman Peter MacDonald and the Navajo people. I will give them a chance to demonstrate that they can assemble a package as promising and competitive as any I will find in any other state or any other country.

They deserve that chance. And if they can meet my business needs—if they can be competitive—I will invest my dollars among the first Americans, and be proud to sow the seeds of a truly self-sustaining and thriving private sector in this, the very last untapped economic frontier, in these United States.

I urge you to make the same commitment.

We do owe these people much more . . . and no less . . . than the chance to share in the growth and prosperity that has made us the greatest, richest land on earth.

Thank you very much.

REMARKS BY THE PRESIDENT TO THE NAVAJO ECONOMIC SUMMIT

The PRESIDENT. I was deeply honored when Chairman Peter MacDonald asked that I open the Navajo Economic Economic Summit, and I regret that I can't be in Tohatchi to take part in this historic event. But although I can't be with you in person, I'm very much there with you in spirit.

Early in this administration we established a firm commitment to conduct our relations with all Indian tribes as one government to another. I want to renew that pledge to you today. The Navajo Nation, with nearly 200,000 members and a land base of nearly 15 million acres, deserves a special place as a valuable economic force in America.

Your labor force, for example, is known around the world for its skilled artisanry and painstaking attention to detail. In fact, when NASA was looking for someone to make spacesuits for our astronauts, they looked to Navajo, and Navajo never let them down. And yet, with all of the talent and energy your young men and women have to offer, too many of them are without jobs. This is particularly disturbing because you have something to offer that no other people can, whatever their resources and location. Your culture, traditions and Navajo quality of life are an important part of America.

The federal trust relationship with the Navajo Nation was created by treaty almost 120 years ago, and while historically the federal government has had good intentions where Native Americans are concerned, instead of fostering independence, the government ended up doing just the opposite.

I hope that this economic summit can be a beginning to change all that. Your future certainly is not here in Washington. It does not stem from more federal programs. I know the purpose of your summit is to examine how existing federal programs can be made less bureaucratic and better suited to your goal of economic growth.

In addition, I understand the Navajo Nation has been looking at ways of streamlining its government processes. It has taken courage to set a policy that, for the first time, says a partnership with the private sector is the future.

As you know, I have always been and always will be a supporter of increased local control, because certainly, the best government is the government closest to the people. I'm very pleased with your efforts thus far and would encourage you not only to continue to improve existing programs, but to continue to assume responsibility for more federal programs. Believe me, I want this administration to help you gain true economic self-sufficiency.

Chairman MacDonald, distinguished members of the Navajo Tribal Council, your call to action at Window Rock, that "Navajo Means Business!," has been heard back here in Washington. We want to assist you in every way we can to build a secure, prosperous private sector on the Navajo Reservation.

And now, I'd like to thank Senator Domenici, to whom we're indebted for the very idea of this summit. The dedication of all the participants, including co-sponsor Senator DeConcini, to promoting economic development on the Navajo Reservation is to be commended. I know that we can all help Native Americans achieve greater economic independence.

Finally, I'd like to address a word to the business leaders gathered in Tohatchi. All of you, throughout long and successful careers, have demonstrated your acumen, energy and foresight. Today, your very presence at the Navajo Economic Summit is sending a message through corporate boardrooms across this country: The Navajo can be competitive also.

You've made the commitment to look to Navajo before you look abroad for your next factory. You've taken up the challenge to spur a Navajo economic recovery, from federal dependence to economic independence. And you have a very strong supporter right here in Washington.

Thank you, and to all of you go my best wishes for a very successful summit.

NAVAJO ECONOMIC SUMMIT PARTICIPANT LIST

Mr. Ben W. Agee, President and Chairman of the Board, CP National.

Ms. Cristena L. Bach, Special Assistant, The White House.

Governor Norman Bangerter, Utah.

Mr. Eddie Basha, President, Bashas' Market, Inc.

Mr. Ernest Becenti, Jr., Council Delegate, Navajo Tribal Council.

Mr. Richard Begaye, Council Delegate, Navajo Tribal Council.

Senator Jeff Bingaman, New Mexico.

Mr. Oliver C. Boileau, President, General Dynamics Corporation.

Governor Garrey Carruthers, New Mexico.

Mr. Oleg Cassini, President, Oleg Cassini, Inc.

Major General Leo M. Childs, Deputy Commander, U.S. Army Information Systems Command.

Mr. Raymond Combs, Special Assistant to the Secretary, Department of Housing and Urban Development.

Mr. Robert W. Craig, Moderator.

Mr. Percy Deal, Council Delegate, Navajo Tribal Council.

Senator Dennis DeConcini, Arizona.

Senator Pete Domenici, New Mexico.

Mr. John Ehrmann, Moderator.

William Lynn Engles, Commissioner, Administration for Native Americans, Department of Health and Human Services.

Mr. Mel Fischer, Executive Vice President, Occidental International Exploration and Production.

Senator Daniel K. Inouye, Hawaii.

Mr. Takuro Isoda, Chairman, Daiwa Securities America, Inc.

Representative Jon Kyl, Arizona.

Chairman Peter MacDonald, Navajo Tribal Council.

Dr. Thomas G. Marx, General Director, Market Analysis and Forecasting, General Motors.

Mr. Paul Mayrand, Director, Special Targeted Programs, Department of Labor.

Senator John McCain, Arizona.

Governor Evan Mecham, Arizona.

Representative Howard Nielson, Utah.

Mr. David Paulus, Senior Vice President, First Chicago Corporation.

Mr. Marshall Plummer, Council Delegate, Navajo Tribal Council.

Mr. Robert A. Pritzker, President and Chief Executive Officer, The Marmon Group.

Representative John Rhodes III, Arizona.

Representative William Richardson, New Mexico.

Mr. Alex Riggs, Sr., Council Delegate, Navajo Tribal Council.

Mr. Robert Rodale, Chief Executive Officer, Rodale Press.

Mr. Albert Ross, Jr., Council Delegate, Navajo Tribal Council.

Mr. William Stoecker, Chairman of the Board, Grabill Corporation.

Mr. Ross O. Swimmer, Assistant Secretary of the Interior, Bureau of Indian Affairs.

Vice Chairman Johnny R. Thompson, Navajo Tribal Council.

PRICE-ANDERSON REAUTHORIZATION

Mr. BURDICK. Mr. President, I would like to note that yesterday the other body approved legislation to reauthorize the Price-Anderson Act. The Price-Anderson Act governs liability and compensation in the event of a radiological accident at nuclear powerplants or involving Department of Energy nuclear contractors.

This legislation provides substantial benefits to persons that might be injured as a result of a nuclear accident. It also provides substantial protections from crippling liability for persons engaged in nuclear activities. The act's benefits provide good reasons to reauthorize the act.

I believe that the act should be extended as soon as possible. The authority under the act to provide Price-Anderson coverage for new activities expires this Saturday, August 1. Ac-

tivities presently covered will continue to be covered, but no new activities will be able to receive the act's benefits.

In order to reauthorize the act in a timely manner, the Environment and Public Works Committee is scheduled next week to mark up legislation concerning the act's applicability to commercial nuclear powerplants. At this time I hope we can both extend and improve the act's provisions regarding these reactors.

In my opinion, the bill passed by the House contains substantial improvements over current law. We will be considering these improvements and others next week. It is my intent that the full Senate have the opportunity to consider the act's reauthorization and extension as soon as possible.

MINE COUNTERMEASURE SHIPS

Mr. KASTEN. Mr. President, naval mines have been used successfully against ships as early as the 16th century. However, this lesson seems to have been forgotten. The United States has fallen dangerously behind in our capability to engage in mine countermeasure activities.

In fact, if we were in a major conflict today, the United States would only be able to keep two of its major ports open with our current minesweeping capability.

This situation has come to a head in the Persian Gulf, and I am relieved that the threat has at long last been recognized and that something is being done about it. There are, nevertheless, serious doubts in some quarters as to whether the current plans to increase our mine countermeasure capabilities will meet future threats.

Mine warfare has, for many years, been the Cinderella of the Navy. We have not built a minesweeper since the Korean war. I have been trying to convince the Navy and Congress for 6 years that it is one of our biggest threats.

It is relatively easy for a poor nation to engage in mine warfare. Mines are poor man's weapons. They do not cost a lot compared to other weapons. There is hardly any maintenance required. And no people are needed to detonate them. It's a low risk inexpensive weapon for anyone.

Although efforts are at last being directed toward improving U.S. mine countermeasures systems—it is not enough. I do not believe we have enough minesweepers and special helicopters to keep our ports open at home, let alone the Persian Gulf.

With almost 5,000 miles of coastline, the United States is particularly vulnerable to mine warfare. Mines have become more sophisticated, smaller and deadlier.

While the U.S. ability to protect its coastal waters has fallen dangerously behind, the Soviets have an 18-to-1 edge in minelaying strength.

The Soviet Union also has the largest stockpile of sea mines in the world. I believe they have over 400,000 mines as well as the means to deliver them—by aircraft, by submarine, or by surface ship—naval or merchant—anywhere in the world.

To counter that threat, the United States has available a totally inadequate force of about 20 minesweeping helicopters and 3 active and 18 reserve minesweepers. That is a ratio of 10,000 mines to 1 countermeasure platform.

Let me give the Senate an idea of what I am talking about. Operation Starvation was our World War II mining campaign against Japan. It caused the sinking of, or severe damage to, 1,075 enemy commercial and naval ships. That is one vessel for every 23 mines.

The mines used in World War II are primitive by today's standards. Improvements in explosives technology make modern mines much more lethal per pound while new electronic techniques, minicomputers, and advances in electronics systems have combined to make sea mines less detectable.

I think the problem begins with the fact that there is no vested interest in the Navy for mine warfare.

Unlike submarines and surface warships, our mine warfare forces do not have the benefit of the specialized officer community to look after their interests and welfare. The commanding officers of the minesweeping flotillas come from the surface-warfare community, who view their tours of duty as early commands en route to command of a "real" warship.

No careers in the minewarfare forces are going to make you Chief of Naval Operations.

Mr. President, we must have a Navy which meets the threat. Buying billions of dollars of submarines and aircraft carriers is not going to do us much good if we cannot even get them out of the harbor.

It's going to require ships like minesweepers that are not as exciting and an organization to support them. If it takes changing how we treat the mine warfare community, like we did with special operations, then that is what we ought to do.

In recent years, the Navy's mine warfare program has gone from dead in the water to full ahead slow. I would say it is time to shift to all ahead flank speed.

TOSHIBA/KONGSBERG: THE SHIINA REPORT

Mr. HELMS. Mr. President, this morning, in Tokyo, Prime Minister Nakasone's Cabinet approved a proposal to the Japanese Diet that substantial changes be made in Japanese export control laws and procedures.

Maximum criminal penalties would increase from 3 years of imprisonment to 5. Likewise the statute of limitations would increase from 3 years to 5. Possible fines go up to five times the value of the export. Government authority to ban a company from trading with the Soviets would increase from 1 year to 3.

Of particular note is the inclusion of attempted diversion as a crime for the first time. Ideally we would like enforcement authorities to prevent diversions by catching perpetrators in the act but under current Japanese law it is very difficult, if not impossible to charge such persons with a crime. They must actually deliver the goods to the Soviets before they can be charged. This change, if adopted, would give the Japanese police and customs officials the tools they have needed.

Mr. President, in the final analysis perhaps the changes having the biggest impact will be bureaucratic and attitudinal. Until this proposal becomes law, the Japanese ministry with responsibility for export promotion will be in charge of export controls. This ministry is very effective at its primary mission but export controls has been an undermanned, underfunded backwater. Those Japanese ministries and agencies with responsibility for national security such as the Ministry of Foreign Affairs, the Japan Defense Agency and the National Police Agency have been excluded from the export control process.

Under the new process an interagency committee will be set up similar to our Senior Interagency Group on the Transfer of Strategic Technology. The hardliners at the Ministry of Foreign Affairs and the National Police Agency will no longer be frustrated observers but rather will become active participants in their nation's vital national security export control policy.

Mr. President, at this point the proposal is only a proposal. It will be vigorously debated in the Diet. It is not everything we would like to see. For my part, I am convinced that the Japanese will eventually have to face the facts of life with regard to rampant Soviet espionage in Japan and the need for an espionage statute. The sooner this happens, the better.

Further there remains the question of who will have to pay for cleaning up the Toshiba-Kongsberg treachery. Preliminary estimates from the U.S. Department of Defense suggest the bill will be a minimum of $8 billion to a possible maximum of $60 billion. But, the proposal to the Cabinet is a useful beginning and will make an important contribution to the national security of the free world.

A lot of the credit for this positive development should go to Japanese Dietmember Motoo Shiina. It was his

Ad Hoc Committee on Illegal Technology Diversion which made the proposal adopted by the Cabinet. His task was not an easy one. On the one hand he was pressed by an outraged Japanese public and the Japanese press. On the other, there was understandable resistance from Japanese business interests and an entrenched bureaucracy which was on the defensive for its handling of the Toshiba case and anxious to avoid sharing power with other ministries.

Since interest had been expressed in our export control system, Senators PROXMIRE, GARN, SARBANES, HEINZ, and I sent a joint letter to Mr. Shiina outlining our procedures. Senator MURKOWSKI contributed an excellent op-ed piece to a major Japanese newspaper. Our intent was not to interfere in internal Japanese policies but to explain our system and inferentially indicate our concerns.

What really matters is implementation. If the proposal survives the Diet debate intact but loses in the implementation, the free world will have gained nothing and we will have to wait for the next egregious case. The Toshiba/Kongsberg case illustrates the realities for the free world alliance. We are even more mutually dependent because of the diffusion of high technology. A chain is only as strong as its weakest link. Other countries are watching to see if Japan truly implements this proposal. If it does not, they will draw a natural conclusion and the alliance will suffer.

The issue goes beyond Toshiba and Kongsberg, Japan and Norway. In fact, I would not be surprised to see other companies and other countries revealed to have major export control violations. Soviet spies are trying to fill their strategic technology requirements wherever they can. Two weeks ago the Norwegian Government expelled three Soviet KGB officers who were looking for hydroacoustics technology.

Mr. President, I ask unanimous consent that the following materials be printed in the RECORD at the conclusion of my remarks: A letter dated July 24 from Senators PROXMIRE, GARN, SARBANES, HEINZ, and HELMS to Japanese Dietmember Motoo Shiina; Mr. Shiina's reply of July 29 with attachment entitled "Measures to Prevent Illegal Technology Diversion"; a page 1 article from the Tokyo, Japan, newspaper Sankei dated July 27, 1987; and a page 3 article from Sankei dated July 28, 1987.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, July 24, 1987.

Hon. MOTOO SHIINA,
Deputy Chairman, Policy Affairs Research Council, Chairman, Ad Hoc Committee on Illegal Technology Diversion, Liberal Democratic Party, Daini-Giin-Kaikan, Nagata-Cho, 2-2-1, Chiyoda-ku, Tokyo 100.

DEAR MR. SHIINA: Please accept our congratulations on the establishment of the Liberal Democratic Party Ad Hoc Committee on Illegal Technology Diversions and your assumption of its chairmanship. Establishment of your committee demonstrates the resolve of the Japanese people to strengthen Japanese export controls so that Japanese national security and Western security goals embodied in COCOM regulations are adequately protected.

There has been considerable interest expressed by the Japanese government and Japanese industry about American export control procedures in the wake of the recent diversion furor. The United States has adopted an approach that involves all relevant government agencies in questions of national security export controls. It has been our experience that the best system is one which balances the views of the agency with export promotion responsibilities, in our case the Department of Commerce, with those agencies which have primary national security responsibilities such as the Department of State and the Department of Defense.

For example, our highest level policy making body in this area is the Senior Interagency Group on the Transfer of Strategic Technology (SIG-TT) chaired by the Undersecretary of State for Security Assistance, Science and Technology, Edward Derwinski. The Departments of Commerce, Defense and Treasury as well as the United States Trade Representative are represented on this Group. A further indication of the prominence our country gives national security export controls is the fact that there exists in the White House a Special Assistant to the President for Technology Transfer Affairs, Ambassador Robert Dean.

Given the importance we in the United States attach to the national security implications of trade in advanced technology, we welcome the movement in Japan towards including a security clause as an amendment to the Japanese law affecting high tech exports, the Foreign Exchange and Foreign Trade Law. We hope our description of the American system will be helpful in the further deliberations of your committee on this matter.

Sincerely,

JAKE GARN,
JOHN HEINZ,
BILL PROXMIRE,
JESSE HELMS,
PAUL SARBANES.

TOKYO, JAPAN,
July 29, 1987.

Hon. JESSE A. HELMS,
Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR HELMS: Thank you for your letter of July 24, in which you expressed your keen interest in the current discussions in Japan concerning the amendment of the Foreign Exchange and Foreign Trade Control Law. I especially appreciate your description of the American export control system of technologically sensitive items, which was very useful as reference for our discussion on this issue.

As you rightly pointed out, I consider it vital to establish clear recognition about the importance of sensitive technology to the national security and to strengthen the effective export control mechanism, so that we could prevent recurrence of illegal diversion in the future. To this end, the Ad Hoc Committee on Illegal Technology Diversion of LDP has worked hard to formulate general guidelines based on which the Japanese Government is expected very shortly to propose specific measures to strengthen the export control regime with due regard to national security considerations.

I am pleased to enclose herewith the findings of the Ad Hoc Committee. I trust you will recognize in the findings our seriousness and determination on this matter.

Thank you again for sharing the concern with us.

Sincerely,

MOTOO SHIINA,
Chairman, Ad Hoc Committee on Illegal Technology Diversion, Liberal Democratic Party.

MEASURES TO PREVENT ILLEGAL TECHNOLOGY DIVERSION

(Ad Hoc Committee on Illegal Technology Diversion, Policy Affairs Research Council, Liberal Democratic Party, July 29, 1987)

The recent illegal export of milling machines by Toshiba Machine Co. is a case which should be given serious scrutiny from the viewpoint of Japan's national defense and the security of the Western countries as a whole.

The circumstances surrounding this incident clearly indicate that it was caused by defects in Japan's existing export control regime. Japan has become one of the forerunners in high technology and the export of high technology may have direct bearing on national security. It is now a matter of urgency for the government to unite itself and review the whole control regime.

Although there is general recognition in Japan of the importance of national security, it is still to be substantiated by domestic regime and political awarness. It is indispensable for the security of our own existence that we make incessant endeavors both individually and collectively with the United States. Priority should, therefore, be given to the basic measures necessary for this purpose.

1. PRESENT SITUATION

(1) Seen from the viewpoint of the security of Japan and the West as a whole, the illegal export of milling machines by Toshiba Machine Co. has raised fundamental questions as to Japan's export control regime and aroused strong doubts that security interests have not been given sufficient consideration in dealing with economic matters.

(2) This incident may cause suspicion to rapidly spread among foreign countries, especially the United States, that Japan is pursuing economic benefits at the cost of the security of the West. There is, therefore, a danger, depending on the future handling of the issue, that the management of Japan-U.S. relationship and confidence in Japan among the Western nations may be seriously damaged.

(3) Based on the recognition described above, the following specific measures should be promptly implemented.

2. SPECIFIC MEASURES

(1) Strengthening of the Export Control Regime from the Viewpoint of National Security.

Legal grounds for implementing export control in Japan is the Foreign Exchange and Foreign Trade Control Law which, as it stands, falls short of proper and coherent export control regime, from the viewpoint of securing "international peace and security." The central task to be undertaken at this time should be, therefore, to address this question and to make necessary legal amendments.

(a) Explicit reference to the control for the purpose of maintaining "international peace and security" should be established in the relevant clauses of the law.

(b) Moreover, it is indispensable to establish an effective consultation system, from the above point of view, between governmental agencies responsible for national security affairs and agencies implementing export control. This is also important for demonstrating to other countries our resolve to secure objectiveness in the export control regime. At the same time, such a regime will facilitate the balance between promotion of trade and its control based on national security considerations.

(c) It is clear that violation of export control based on national security is particularly damaging to Japan's national interests. In order to prevent such violation it is necessary to strengthen existing criminal and administrative penalties.

(d) It is necessary to strengthen the consultation mechanism among governmental agencies related to foreign affairs, defense, export control and judiciary in order to enhance coherence between COCOM related activities and Japan's export control.

(e) It is crucial to enhance public recognition of the security implications which technology transfer carries and of the importance of proper export control from the viewpoint of maintaining international peace and security.

(f) Governmental agencies directly and indirectly involved in export control should drastically increase relevant personnel (including those at customs and in charge of COCOM) and promptly strenghten organization within each agency.

(2) Strengthening COCOM Related Activities

Japan should play a more active role in COCOM in future. For this purpose, institutional improvement for conducting COCOM affairs is needed.

(3) Strengthening Cooperation in the Japan-U.S. Security Arrangements.

In order to cope with quieter Soviet submarines and the threat they pose to our security, Japan should cooperate with the United States, within the framework of the Japan-U.S. Security Arrangements, to improve anti-submarine capabilities, which constitutes a vital element in national security of Japan. For this purpose, Japan should be actively engaged in the anti-submarine research project to be implemented in cooperation with the United States.

U.S. SENATOR MURKOWSKI'S FOUR PIECES OF ADVICE ON TOSHIBA PROBLEM

The case of the violation of COCOM by Toshiba Machine and others has incurred the strong repulsion of the US, on the grounds that it brought about serious damage to the security of the West. The problem is steadily becoming more serious, such as the US Senate's adopting a sanction bill for shutting out Toshiba Machine, its parent company Toshiba Corporation, and the Norwegian State-operated munitions manufacturer, Kongsberg Corporation, which were involved in the illegal exports, from the US market. Senator Frank Murkowski (Republican) sent a contribution to the Sankei Shimbun on the 27th concerning this illegal exports case, and clarifying the details of the problematical points of this case, offered concrete advice in the direction of the prevention of a recurrence of this kind of case. As an influential leader of the US Senate in its policies toward Asia, Senator Murkowski once served as Chairman of the Senate Foreign Relations Committee's East Asia and Pacific Affairs Sub-Committee, and he sets forth views which represent the conservative faction of the US Congress, concerning this case. (The following is the full text of Murkowski's advice).

More Personnel for Export Control; Should Demand "Certificate of Destination of Exports"; Should Increase COCOM Operation Funds; Should Re-study Ways for Deciding on Export Policies.

The damage is tremendous. The problems spread from the spy case of the year before last, involving US Naval Engineer Walker and his family, to Norwegian State-owned munitions manufacturer Kongsberg to Toshiba (Machine). In the course of this process, a group of companies engaging in international trade betrayed the Free World in exchange for money. In other words, these two companies sold to the Soviet Union machines for the milling of high-performance submarine screws.

The two companies exported eight large-size machine tools, attached with numerical-control equipment, which can mill submarine screws at a precision degree of one-one-hundredth of a millimeter, destined for the Soviet Union's Baltic Fleet Shipyard. This was a violation of an international export restriction agreement and the laws of the two countries.

In the North Pacific, NATO has established a system of imbedded hydrophones and sonar buoys, which float on the sea-surface, backed by attack-type submarines.

Until recently, NATO's anti-submarine teams were able to catch the screw noise of Soviet submarines even at a distance of 200 miles (about 320 kilometers). However, (as a result of the exports of machine tools by Toshiba Machine and others), this tracking scope has narrowed to 10 miles (about 16 kilometers). As the sea areas which must be covered extend to several million square miles, the losing sight of Soviet ballistic missiles and attack-type submarines has now become unavoidable. In short, due to the machine tools exported by Kongsberg and Toshiba (Machine), one-third of NATO's strategy deterrent power against the Soviet Union has been forced into dismantlement.

The repairing of this damage has now become a life-or-death problem. Even in order to make persons who try to do the same thing in the future, re-consider, the persons who committed the crime this time must be punished. The Walker Family, the spy group, is now placed in detention. John Walker, the ringleader, is now serving a life sentence in a Federal prison, where the guard is most strict. Other remaining members of the family have also been sentenced to long prison terms. In Japan, two Toshiba (Machine) leaders were arrested, and charges were brought against seven other persons. Japan's extremely able Metropolitan Police Board is pushing investigations of the case, even now. As for the Norwegian side, it is still in the midst of investigations. Only one Englishman has been indicted so far in connection with the Kongsberg side. This has resulted in giving rise to some degree of doubt toward the Norwegian Government's handling of the case, in the case of its own people coming to surface as suspects in the investigations. Even so, however, the Norwegian police authorities concerned are pushing investigations into related cases, in the same way as Japan's Metropolitan Board.

The US Senate adopted a demand for compulsory sanctions and damage compensation toward Kongsberg and Toshiba, with 91 votes for and 5 votes against it, on June 30. In regard to sanctions and compensation for damage, the House of Representatives is also expected to secure similar support.

It is clear that, for both Japan and Norway, their respective export control systems are inadequate, and both Government's have promised improvement.

In view of Japan's economic scale and its leadership in the high technology field, it is necessary for us to check the Japanese side's measures in greater detail. The first thing needed is the Japanese Government's assigning a larger number of personnel to its export control system. ITI Minister Tamura increased export control inspectors from 10 to 15. In the US, however, there are 140 inspectors in the Defense Department alone, and there are also 500 inspectors in the Commerce Department.

The second point is that the Japanese Government should demand the presentation of certificates for the destination of exports, for trade with the Western side. The present situation is that Japanese Government officials concerned are not giving thought as to what purposes high-technology machines and equipment, which are exported to non-communist nations, are put, after they are exported.

The third point is that as Japan has a trade surplus balance of as much as 100 billion dollars a year, it should be able to contribute more than its present contribution of 40,000 dollars (about 6 million yen) a year for the operation of COCOM. The US is contributing more than 500,000 dollars a year.

The last and most important point is the need to change the posture (toward trade with the Communist Bloc) within Japan. Trade with the Soviet bloc must not be conducted from the economic viewpoint alone any further. No matter how good the situation, it is no easy thing for bureaucrats to cede their own rights and interests. However, MITI should carry out the work of deciding on export control policies jointly with the Foreign Ministry and the JDA. Veteran Diet members should ask themselves whether it is really permissible for a country which desires to participate in the SDI (Strategic Defense Initiative) (in a positive way, to continue to be a paradise for Soviet spies. Judging from the fact that Japanese newspapers took an extraordinarily tough posture toward Toshiba Machine) over the case this time, it is thought that public opinion in Japan is mentally prepared to take the leadership for the promotion of measures (to prevent the recurrence of this kind of situation).

In the case of Norway, the problem is its overcoming its blind spots. Norway's contribution to NATO can be said to be generally exemplary. For example, Norway adopts a military conscription system (which the US does not adopt), and among the various NATO member nations, including the US, it has the highest percentage of population

which can be mobilized. However, Norway takes the posture of regarding trade with the Soviet bloc as "normal business," in the same way as Japan does. Judging from Norwegian newspapers (reporting the case this time), it is viewed that public opinion has started to re-study that kind of posture.

I am not saying that it is just Norway and Japan alone which are lacking in attention toward export control. Since the Free World relies on offsetting the Soviet Union's quantitative superiority (in the military field) with technological superiority, we must have a sense of guardedness. Viewed in the light of the mood of public opinion in the US, it is a natural obligation of the Governments of all our allies to re-study their own export control systems. (Translation by Reporter Masatake SO)

Revision of Foreign Exchange Law at MITI's Initiative Will Not Have Real Effects; Should Be Carried Out on Joint Responsibility of Foreign Ministry and JDA; Five Influential US Senators Send Letter to LDP; Appreciate Incorporation of Security Clause

A revision of the "Foreign Exchange and Foreign Trade Control Law" (Foreign Exchange Law) as a counter-measure toward the case of Toshiba Machine's violation of the COCOM Rules is the focus of discussions. On the 25th, five influential US Senators sent a letter to the LDP's "Study Council on Measures to Cope With the Illegal Outflow of Technology" (Chairman: Motoo Shinna), and transmitted the advice to the effect that, even if a security clause is established through a revision of the Foreign Exchange Law, it will not have real effects if MITI, whose primary task is the promotion of exports, takes the leadership, and it is desirable to take the form of the Foreign Ministry and the JDA shouldering joint responsibility. In order to avoid the criticism that it is interference in internal affairs, the advice takes the form, to the last, of making known the actual substance of the US side's export control system. However, this kind of letter concerning a bill which is to be deliberated on at the Japanese Diet in the future, is extremely unusual, and it reflects the US Congress' strong concern over this problem and its distrust toward MITI.

This letter is co-signed by a total of five Senators, namely Chairman of the Senate Banking Committee, which handles the exports control problem, intertwined with security, William Proxmire (Democrat) and Members Paul Sarbanes (Democrat), Jake Garn (Republican) and John Heinz (Republican) and the Foreign Relations Committee's big-name member Jesse Helms (Republican). This letter, which is addressed to Chairman Shiina, first welcomes the LDP's establishing a new "Study Group of Measures to Cope with Illegal Outflow of Technology" on the 21st, for the prevention of COCOM violations, and expresses the view that the revising of the Foreign Exchange law for the incorporation of a security clause is very desirable, when consideration is given to the effects which the exports of high technology have on security.

The letter next says definitely, in connection with the point that the views of MITI and the Foreign Ministry are in conflict over the authority over the security clause, that "The best system must be one which comprehensively co-ordinates the views of Government offices, whose primary task is the promotion of exports, and the views of Government offices, whose main mission is responsibility for State security." The letter says that, in the case of the US, "the Government office for the promotion of exports" is the Commerce Department, and "the Government offices which are responsible for State security" are the State Department and the Defense Department. Although it avoids setting forth clearly the names of Japan's MITI and the Foreign Ministry, the view that it will not be "the best system" if MITI takes the initiative, is expressed clearly in the context of the letter.

The letter which further introduces the system in the US, explains as follows: "The highest-level policy-deciding organ is the 'SIGTT' (high-level inter-Departmental group on strategic technology transfer), the chairman of which is the Assistant Secretary of State for Security Assistance and Science and Technology, and the representatives of the Commerce, Defense and the Treasury Departments also take part in this group. Still further, there is a Special Assistant to the President in charge of the technology transfer problem, in the White House." In this part, too, the view of opposition to a security clause in the Foreign Exchange Law under which MITI alone has authority, is expressed, although in a roundabout way.

The five Senators who signed this letter are all influential Senators from both the Democratic and the Republican Parties, and they have also been fulfilling big roles in the deliberations on the Trade Bill, which include sanctions against Toshiba.

According to a US source, who is well-versed in the background of this letter, the problem of a revision of Japan's Foreign Exchange Law was also taken up at the National Security Council meeting on the 23rd, and the danger of the implementation of the law, after its revision, coming under MITI's exclusive authority, was pointed out. It can be said that there is the US side's distrust in MITI also in the background of this letter, signed by the five Senators.

MERTON G. HENRY

Mr. COHEN. Mr. President, I rise to call the Senate's attention to the outstanding record of service of Merton G. Henry, a Portland, ME, attorney who has just stepped down after 25 years of service on the governing boards of my alma mater, Bowdoin College.

In addition to his tenure at Bowdoin, Mert Henry has for many years been a trusted adviser to Republican public servants, including that venerable daughter of Maine, Senator Margaret Chase Smith, and Senator Frederick Payne.

The Portland Evening Express newspaper has published this month a tribute to Mr. Henry, outlining the many contributions he has made to Bowdoin through the years. I think this article is worthy of the Senate's attention and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HENRY TAUGHT BOWDOIN THE MEANING OF SERVICE

(By Dieter Bradbury)

The Bowdoin College Board of Overseers robbed the cradle when it elected Portland lawyer Merton G. Henry to membership back in 1962.

While the other members had an average age of 70, Henry was only 36.

Twenty-five years later, Henry has just stepped down from Bowdoin's Board of Trustees after a remarkable record of continuous service on the school's governing boards.

During his tenure—including 12 years as an overseer and 13 years as a trustee—Henry helped to guide the college through one of the most tumultuous periods in its nearly 200-year history.

It was an era that encompassed the inaugurations of three presidents; the admission of women; the construction of serveral major buildings; three capital campaigns; major changes in curriculum; and a management upheaval that triggered a reorganization of the governance structure.

Henry and his wife, District Court Judge Harriet P. Henry, live on the shores of Sebago Lake, where the family moved in 1978 after the youngest of their three children graduated from Deering High School.

At age 61, he has a history of professional and civic activity in southern Maine that makes his name a familiar one in many circles.

Henry is known as an influential member of the Republican Party's inner circle, as a former Portland School Committee member who handles legal affairs for many school districts, and as the long-time moderator at Standish town meetings.

But it is in his capacity as a policy-maker at Maine's oldest post-graduate institution that Henry has perhaps exerted the most influence.

In an interview at his Monument Square office, where inscribed photographs of Ronald Reagan and George Bush hang, Henry said his future as a Bowdoin man was sealed when he was graduated from South Portland High School.

"All the top administrators in South Portland were Bowdoin graduates," he said, "so in those days you didn't apply to Bowdoin—you were sent there."

He enrolled after two years' service in the Army, graduated magna cum laude with a history degree in 1950 and was active in college alumni groups until his nomination to the board of overseers in 1962.

Reflecting on his long involvement with Bowdoin, Henry said the school has always instilled a great deal of loyalty in its students.

"I was a country boy, basically," he said. "Bowdoin served to show me the real world, I guess—and I got a great education there. I had a constitutional law class at Bowdoin that was better than the one I took in law school."

With his long record of service to the college, Henry has seen the ebb and flow of all the philosophical and political trends that have affected higher education in the past three decades.

At Bowdoin, those trends included the addition of new buldings and faculty; the admission of women to the previously all-male school in 1971; and the abolition and eventual reinstatement of core course requirements.

Bowdoin didn't escape the turmoil that engulfed American colleges 20 years ago, and he vividly recalls demonstrations and threats to shut down the campus in 1969.

"There was a lot of talking and a lot of listening going on," he said. "Everybody in my generation was concerned about what was going to happen."

But the greatest challenge he faced was during a management crisis in 1980, when the college president and another top administrator stepped down as a result of a clash with board members.

Henry headed a committee that rewrote the governance laws to clarify lines of authority and reduce the potential for policymaking and administrative conflicts in the future.

"I think he (Henry) understood that part of the problem had been the boards themselves and the way they had been organized," said college President A. LeRoy Greason.

"He took the initiative in revising the structure of the boards, and it has worked very well," Greason said.

"He expects people to fill the roles assigned to them and fill them well, so that he doesn't take over other's roles. On the other hand, he's always available to provide insight and talk over a problem."

Greason called Henry an able person who "seems to have almost total recall," and will take a liberal position on some issues and a conservative one on others—without being inconsistent.

At the board level, Henry led a successful charge to tighten up a resolution that Bowdoin divest its endowment fund holdings in firms that do business in South Africa.

His support for the measure was as much pragmatic as ideological.

"I think it's a symbolic gesture," he said. "I concluded we were spending an inordinate amount of time on it. At some point in time, even symbolic gestures become important."

Although his tenure on the governing boards is over, Henry's activities on behalf of his alma mater are merely entering a new phase.

His retirement announcement was coupled with the news he would be heading a committee which will spend the next seven years planning for Bowdoin's bicentennial celebration in 1994.

"It will be a major event," Henry said. "We hope to have a new history of the college written, and the Walker Art Museum, which will be celebrating its centennial, will be a central focus.

"I suspect there will also be a major academic focus . . . we hope to bring in some major academic figures."

Noting that one of his two sons graduated from Bowdoin in 1980 and his daughter in 1982, Henry observed that "when people reminisce about Bowdoin, they tend to think of the past."

Henry is clearly one who also thinks about the future.

APOLOGY TO SENATOR METZENBAUM

Mr. HEINZ. Mr. President, like my colleagues I was shocked and disgusted by the revelation this week of a Republican campaign document that characterized one of our Senate colleagues, Senator HOWARD METZENBAUM of Ohio, in a totally reprehensible fashion. There is no place for this kind of character assassination in America. I, too, want to join with Senator DOLE and Senator BOSCHWITZ in apologizing to Senator METZENBAUM.

Let me say at the same time that this incident is an aberration which was as unprecedented as it was unplanned or unintended. Such an attack is totally uncharacteristic of the Republican Senatorial Campaign Committee, its staff and most of all, its Chairman, Senator BOSCHWITZ. As someone who has chaired the Republican Senate Campaign Committee on two separate occasions for a period totaling 4 years, I have always taken great pride in the professionalism and integrity of the staff and all the committee's work. Indeed, I cannot recall any incident even remotely parallel to this as long as I have been in the Senate. The report in question is, let me repeat, a totally uncharacteristic aberration which should never and will never be repeated.

Now I want to say a word about Senator BOSCHWITZ.

It is typical of RUDY BOSCHWITZ' good character that when this document came to light he promptly came here, to the Senate floor, to apologize, to take full responsibility and to discredit this exceptionable material. Mr. President, RUDY BOSCHWITZ is a man who to the very marrow of his bones abhors the idea of attacking or besmirching another human being by slur, innuendo, guilt-by association or any other un-American technique. As a Jew whose family emigrated from Germany to escape an all too similar assault on people of his own religion, RUDY BOSCHWITZ is a man that would never have tolerated the preparation of this document had he known of it. That this incident has occurred is a fully undeserved embarrassment for him with which we should all identify and sympathize.

I hope that we can all consider this unfortunate chapter closed.

ROY NYBERG: AN AMERICAN SUCCESS STORY

Mr. DASCHLE. Mr. President, anyone who follows the wintertime weather reports knows the notoriety of International Falls, MN. International Falls is distinguished frequently every winter as the coldest reporting location in America.

It is a tough place to get a start, but it is the place where a 6-year-old named Roy Nyberg started his business career with two separate, freezing cold daily newspaper delivery routes.

Last month Roy Nyberg was elected president of the National Retail Hardware Association, a federation of 21 regional hardware associations in the United States and Canada representing some 40,000 retailers. This is a tremendous and well-deserved honor for one of South Dakota's business leaders.

The 55 years between Roy's start in Minnesota and his national recognition this summer read like a primer on the American dream. Roy Nyberg worked his way up. He pumped gas to earn tuition money. He stocked shelves to learn the hardware business. He bought a small store to get a start and brought that enterprize through tough times and wrenching changes.

Today Nyberg's Ace Hardware is a business leader in Sioux Falls, SD, and Roy Nyberg is both a community and national leader in his profession and in a host of civic activities as well. When we talk of preserving and strengthening the ideals that have built our Nation we are talking about people like Roy Nyberg, about their lives and the values they embody.

I am proud to commend Roy for his achievement and to commend the strength of his lifetime story to my colleagues and my country. He, his wife Rodora, and his family are South Dakotans in whom I take strong personal pride in calling friends.

DON DICKEY DAY

Mr. STEVENS. Mr. President, today is Don Dickey Day in Juneau, AK.

Don Dickey, Alaska's director of tourism since 1981, and unofficial toastmaster, is retiring today. A recent editorial in the Juneau Empire noted, "that if there were ever a perfect ambassador for our State, Mr. Dickey would be it."

Don and I met first when he was with the Fairbanks Chamber of Commerce in the early 1950's. Since then Don served for 21 years as president of the Alaska Chamber of Commerce before taking over as tourism director. He led a national television advertising campaign to promote Alaska as a tourism destination. And back when Alaska was fighting for statehood, Edna Ferber modeled an appealing and enthusiastic character in Ice Palace after Don, helping to highlight struggle to join the Union.

I ask unanimous consent that the text of the Juneau Empire editorial, "Bon Voyage, Don Dickey" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Juneau Empire, July 8, 1987]

BON VOYAGE, DON DICKEY

Alaska's unofficial toastmaster, ambassador and all-around good guy is retiring from state government at the end of the month. Don Dickey, for six years the state's director of tourism, will be ending his tenure on July 31.

If there were ever a perfect ambassador for our state, Mr. Dickey would be it. He is one of those rare individuals who can win over anyone under virtually any circumstance. Individually, he is charming, quick-witted and funny, with a joke for every occasion. But he can also stand up in front of any group anywhere and keep any program interesting, entertaining and on track.

That talent has won him the title of Alaska's unofficial toastmaster. During his years in Alaska—he was president of the Alaska State Chamber of Commerce for 21 years

before joining the Division of Tourism—he has probably emceed more dinners and special occasions than anyone in the state. More than that, few people could hope to match his quick wit or his self-effacing humor.

Several years ago, he was the emcee at a local chamber of commerce banquet. At the last minute, the featured speaker had to cancel, leaving Mr. Dickey with the job of entertaining several hundred people for the rest of the evening. Most people would have started to recite the Gettysburg Address or resorted to every tired joke in the book. He didn't. Not only did he succeed in making the evening a success, but most of the time he had everyone rolling in the aisles.

That's the sort of person he is. He can perform the toughest public-speaking job with an ease that baffles those of us who wouldn't even think of trying it.

No announcement of his successor has yet been made, but it's a safe bet that no matter who it is, life around the Division of Tourism will be a lot more subdued in his absence.

We wish Mr. Dickey, his wife, Gen, and their family all the best. As some of Juneau's favorite people, hopefully they'll be staying in town—when they aren't out taking part in the tourism industry themselves.

Oh, by the way, have you heard the one about.

FAREWELL TO ROGER MENTZ

Mr. PACKWOOD. Mr. President, the administration is about to lose an outstanding public official, who was centrally involved in the historic tax reform bill of 1986. Today Roger Mentz is leaving his post as Assistant Secretary of the Treasury for Tax Policy to recommence the practice of law at Cadwalader, Wickersham & Taft here in Washington, DC.

Roger is a native of New Jersey, and practiced law in New York City at Mudge, Rose, Guthrie, Alexander & Ferdon until April 1985. At that time he joined the administration in Washington, DC, and was soon named to serve as its top tax policy advocate.

During his tenure we saw enactment of perhaps the most sweeping tax law in U.S. history. Roger could not have picked a better time to make his mark in Government.

And make his mark he did. As you recall, the tax-writing committees devoted enormous time and effort to tax reform in 1985 and 1986. We met over and over in committee meetings and strategy sessions and technical working groups. And every day of every week Roger Mentz was there, advising us on alternatives, giving ideas, reacting fairly to our concerns, and never losing his enthusiasm no matter how long the days or frustrating the process.

Our job was made easier with Roger's help. Some days we wouldn't have accomplished our goal without his fertile imagination, knowledge of tax and good humor.

In the 9 months since the end of the tax bill, Roger has led Treasury's efforts to facilitate taxpayer compliance and understanding of the new law. He has had a good effect on that process as well, helping lead Treasury toward reasonable and commonsense application of hundreds of pages of new tax law.

Mr. President, I thank Roger for taking time out from private practice for a couple of years of Government service. The Finance Committee, the Congress, and the public are better for it.

RETIREMENT OF RAYMOND E. HOOPER, CHIEF, SENATE STAFF CONGRESSIONAL LIAISON SERVICE, VETERANS' ADMINISTRATION

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I want to take this opportunity to congratulate Raymond E. Hooper, chief, Senate staff, VA Congressional Liaison Service, on the occasion of his retirement from the Federal Government.

Ray has devoted 21 years of dedicated service to the Federal Government, 17 of which have been with the Veterans' Administration's Congressional Liaison Service. For the past 12 years, as chief of the VA congressional liaison Senate staff, he has very ably assisted Members of the Senate in their efforts to provide the best possible services and benefits to our Nation's veterans. I have been chairman or ranking minority member of the Senate Veterans' Affairs Committee throughout those 12 years and can personally attest to his unswerving commitment to his work.

I, and members of the Senate Veterans' Affairs Committee, all Senators, and our staffs have always been able to count on Ray Hooper for accurate, timely responses to our many requests for assistance. We could depend on him to provide the information requested, steer us to the appropriate VA official, track down that obscure statistic we needed at the last minute, and otherwise respond efficiently and thoroughly to the many other requests for assistance we made over the years.

In notifying me of his pending retirement, Ray said he has "always looked forward to coming to work." That attitude was certainly evident in his unfailing willingness to perform his duties with efficiency, great, good cheer, and a high degree of competence.

I know that all of the members of the Senate Committee on Veterans' Affairs join me in saluting Ray Hooper upon his retirement from Federal service. Ray will be greatly missed by all of us, but I'm certain that he and his family are looking forward to an opportunity to spend more time together.

I congratulate Ray on a splendid VA career and wish him a happy and healthy retirement.

It was my great pleasure to present to Ray at our committee meeting this morning a resolution of the Committee on Veterans' Affairs commending him for his dedicated service to the Federal Government. Mr. President, I ask unanimous consent that a copy of that July 31, 1987, resolution appear in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RAYMOND E. HOOPER

Whereas, Ray Hooper has served with distinction the Veterans' Administration and America's veterans from August 24, 1970, to August 1, 1987,

Whereas, he has assisted Members of the Committee on Veterans' Affairs and other Members of the United States Senate faithfully and well for 12 years as Chief of the Senate Staff, Congressional Liaison Service, and

Whereas, the Members of the Committee on Veterans' Affairs wish to record their high esteem and regard for his cooperation, knowledge, judgment, ability, and diligence in executing and carrying to successful completion the many requests for assistance made of him over these past 12 years; now therefore, be it

Resolved, That the Members of the Committee on Veterans' Affairs unanimously commend and express their appreciation to Raymond E. Hooper for the distinguished service rendered by him to the Committee on Veterans' Affairs.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 having arrived, the Senate will now resume consideration of the pending business, House Joint Resolution 324, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt.

The Senate proceeded to consider the joint resolution.

PENDING: AMENDMENT NO. 645

The ACTING PRESIDENT pro tempore. The pending question is on amendment No. 645, which the clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and others, proposes an amendment numbered 645.

Mr. JOHNSTON. Mr. President, at about 6 o'clock last night, we finally were able to get a copy of the amendment proposed by Mr. GRAMM, et al. I have been describing that amendment, based upon what I thought it would do, and I must say that I was totally mistaken.

What I thought the proponents of the amendment were going to do is to create a so-called legislative train wreck, where this terrible sequestration was going to come in this year and face Congress this fall with one of those difficult faceoffs with the White House, where the White House would have all the cards and where the possibility of the sequestration was great.

What I find is that this amendment really takes the White House off the hook. It is the take-the-White-House-off-the-hook amendment, or you might call it the sweep-it-under-the-rug amendment, or you might call it pin the tail on the Democrats.

Mr. President, it is going to take a little concentration of my colleagues to understand this, but it is just as clear as the noonday sun on a cloudless day exactly what this amendment does.

The proponents of this amendment are honest, they are well-meaning, they are bright, there is not a bad motive in their bodies; so please understand that I have the very highest respect for the proponents and their motives.

Having said that, Mr. President, I submit that this is the legislative equivalent of Irangate. Why? Because it is a policy confected in secret between just a few Members—again, well-meaning, honest, hard-working legislators—but they confected this policy in secret, as I guess you must do. I guess it is necessary to put these policies together in secret. But they put it together and plopped it out here on the floor at 6 o'clock yesterday evening. They really wanted us to adopt it yesterday evening, without consultation with Congress, without really serious debate, without any committee having a chance to look at it. They just want you to accept it.

Do you know what it does? The first thing it does is make impossible taxes this year. It makes it just impossible. Is sequestration anything to be feared this year? Absolutely not. As I calculate it, the amount that we might have to save this year may be as low as $5 billion—it more likely is around $10 billion—and that is all. That is a lot less than our budget resolution provides for. Our budget resolution, which we fought for and tugged back and forth between Members of the Senate, saves $38 billion, and we got 19.3 billion dollars' worth of taxes in that budget resolution—tough, difficult cuts—but one that we voted for in the Senate, which the House voted for, and which we think we are about ready to implement. But do you know what this package does? It wipes that out.

It says: "No, Congress; no, Mr. President; you don't have to save $38 billion. All you have to save is about—well, let's say $10 billion."

Now, if that is preposterous, Mr. President, let me explain step by step how this thing works.

What it does is it sets a new target. If those Senators who are listening have a piece of paper, the figures will show you exactly what I am talking about. The new target, Mr. President, is $150 billion. So if you write down the new target of $150 billion, then that is what you are supposed to save this year; that is the target for saving.

You do not actually have to get down to $150 billion because the law explicitly provides for what we call a $10 billion cushion.

So it is not $150 billion; it is $160 billion.

Now, we know, Mr. President, that the present deficit is somewhere between $181 billion, according to CBO, or I think they just recorrected that to $186 billion, because of some REA correction. I believe I am correct in that, that it is $186 billion.

So, Mr. President, you have the difference between a maximum amount of $186 billion and $160 billion which purports to be $26 billion. That is the outside amount that we have to save, not $38 billion which was required to be saved, but a maximum of $26 billion.

But, Mr. President, there is another real cooker in this situation, and that is what we call the role of OMB. What it provides is that the figures as to the deficit and the figures as to economic projections between OMB and CBO shall be averaged and you take the midpoint of those.

Now, Mr. President, you know what OMB does—they play what Dave Stockman described as the smoke and mirror game. Dave Stockman did it. He said it explicitly.

I have some quotes here that during the course of the debate today I want to quote from Mr. Stockman. But he described it explicitly.

They would put up phony figures to the tune of $25 or $30 billion.

Did you know, Mr. President, that the difference between the latest estimate of the deficit of OMB and by CBO is $26 billion difference? The latest OMB estimate was an estimate of January and it is $150 billion; and the latest estimate of CBO is $186 billion. Did I say it was $26 billion off? It is $36 billion off. If you average those two, you get a difference of $36 billion. So you get a correction of $18 billion.

So subtract $18 billion from the $26 billion, which you wrote down which was what you had to save and it will give you $8 billion which under that proposal is all you would have to save, $8 billion. That is this tough, new Gramm-Rudman fix, $8 billion.

You say, well, those are not the correct figures because OMB will give you a new estimate of the deficit and it is likely to be higher. Mr. President, if the difference in the estimates on the deficit is not the figure you want to use, just look at the President's budget submitted in January. You know how much difference there was in CBO's and OMB's estimates at that time—$27 billion difference.

If you want to take half off that amount, that is $13½ billion difference. Subtract $13½ billion from the $26 billion which it says you have to save and you get what? You get $13½ billion you have to save this year.

Mr. President, do my colleagues understand what I am saying? This amendment now pending provides in effect that you have to save only $6 billion to $12 billion or $13 billion this year.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, I will yield.

Mr. CHILES. I wonder if the Senator realizes—I guess maybe he does—that the way the bill is crafted, it provides that this year, the year 1988, rather than the way the process works in other years, we are calling for CBO and OMB to give us a new estimate of their estimate of the baseline. We will have those figures at the conference. This is the failsafe. If OMB tries to differ, as the Senator said they might, $20 billion or something from CBO, then we have those figures at the conference, and we then can adjust the glidepath, can adjust what the sequester number will be, can adjust any of those things because we know what their numbers are. If those numbers come out the same, if those numbers are at $186 or $187 billion and it looks like the deficit numbers are going up, then, as the Senator knows, there is not validity to the argument he is making.

Mr. JOHNSTON. May I ask the Senator when is this conference?

Mr. CHILES. The conference will be during the next week, but they have to produce the figures before we complete the conference.

So, the Senator would be right if you could have a number that OMB could do sometime prior to sequester. If they had an opportunity to do that and CBO had to produce their number, if they then gave the final result, but now if OMB comes out with a number and if they say we think the deficit is only $155 billion and CBO says we think the number is $180 billion, and that number would be halfway in between, I can guarantee you we are going to be sitting at that conference,

we are going to be the majority at that conference in both the House and the Senate, and if there are any shenanigans or if they are trying to flimflam the numbers, we simply can adjust the lower number.

Mr. JOHNSTON. Mr. President, I am familiar with that process.

Mr. CHILES. Yes.

Mr. JOHNSTON. Although I must say it is a scramble to try to learn at this late date how the process works, but we are familiar with that process.

I would point this out, that if what the Senator says is correct, and by the way that process of adjustment applies just to this year, from here on out you cannot do it, am I right on that?

Mr. CHILES. Yes, I agree, except Congress has the right to change the numbers in the intervening years. There is time in which Congress can pass——

Mr. JOHNSTON. Even in an election year.

Mr. CHILES. Even in this year as well and there is a fast-track process for Congress to make that change.

Mr. GRAMM. Mr. President, will the Senator yield?

Mr. JOHNSTON. I want to finish this and then I will yield.

What the Senator is saying on this other process is that you get an election year next year and you get these cooked numbers that we have gotten every single year in Gramm-Rudman and the Congress has a right here at the last minute to come in and adjust the numbers upward—fat chance. Fat chance, Mr. President.

Now, let us be clear about what the Senator is saying. First of all, he is admitting, you are cutting down the amount that you have to save from the $38 billion we saved in the budget resolution down to $26 billion at best. Are we right? Am I correct?

Mr. CHILES. The $38 billion we have had to save in the budget resolution still had the $10 billion leeway so it was actually $38 billion.

Mr. JOHNSTON. I know, but we made an actual $38 billion saving, did we not?

Mr. CHILES. What the Senator is talking about is whether we are going to avoid a sequester or not?

Mr. JOHNSTON. What I am saying is the budget resolution that we confected and we voted out of here saved projected $38 billion including $19.3 billion in taxes.

Mr. CHILES. Absolutely, but it has not become law as the Senator from Louisiana knows.

Mr. JOHNSTON. It has not become law, but the purpose——

Mr. CHILES. And there will be no sequester unless you are above $28 billion. So the same $10 billion is there. There is no difference there.

Mr. JOHNSTON. Oh, no, there is a big difference. There is a very big difference because our budget resolution already voted with reconciliation instruction contained 38 billion dollars' worth of savings.

And you actually have instructions going out to the Ways and Means Committee and the Senate Finance Committee to save or to raise 19.3 billion dollars' worth of taxes. When those instructions go out, they do not say, "Raise $19.3 billion worth of taxes, but, by the way, you can miss the target $10 billion." Those instructions do not say that. Those instructions say, "Raise exactly $19.3 billion." And if they report a resolution back to the Congress which does not raise $19.3 billion, it is subject to a point of order.

Mr. CHILES. What I think the Senator from Louisiana needs to explain to the Senator from Florida is how does this differ? When you say we are changing the numbers, how does this differ from the resolution that we are under now? And remember, we used CBO's economics, so we got ours up to that 136 equals 108. We got ourselves in that posture.

Mr. JOHNSTON. The Senator asked me a question. I would like to answer it.

Mr. CHILES. The question is: How does this differ from where we find ourselves now? If we do not save $28 billion, we will have a sequestration?

Mr. JOHNSTON. I can tell you exactly.

Under the present law, the target is not $150 billion with a $10 billion leeway, the target is $108 billion with a $10 billion leeway. That is the difference. So what we have done is we had this real tough target under the present Gramm-Rudman law and we are going to make Ronald Reagan toe the line. I have heard it said, "Boy, we are going to come in there and it is going to be so tough. We are going to bring Ronald Reagan to the bargaining table and he is going to have to accept some taxes." And in that spirit, we voted out a tough resolution saving $38 billion.

And I have even heard the Senator from Florida say, "We have got to have this new fix, this automatic sequester, so that we can make Rostenkowski produce $19.3 billion worth of taxes."

And do we then implement this tough policy which is going to make Rostenkowski vote out the taxes and is going to make Ronald Reagan accept the taxes? Oh, no. No, Mr. President, we cut it down to $26 billion, at most. And then if OMB does anything like they have done every single year, every single year we have been here, they are going to cook the numbers again. And that is going to bring that $26 billion down to maybe as low as I say, $6 billion if you use the difference in the deficit figures, or $12 billion if you use the difference in economic projections already done this year in the President's budget which is the difference between OMB and CBO—$27 billion, the difference between economic projections between OMB and CBO.

We are assured that, "Well, the Congress is going to be able to change that if they want to." Well, you give the Congress a get-off-the-hook proposal and then you say, "Well, but Congress can be tough, Congress is somehow going to be tougher than they have ever been and up that amount of the deficit, up the amount of savings you have to make."

Why, Mr. President, this is so patently, so obviously a let-Ronald Reagan-off-the-hook proposal that I do not see how my friends, brilliant and well motivated as they are, can talk about it with a straight face. It is amusing.

And, Mr. President, the funny thing about it is we are asked to accept this without debate. Do not send it to the Budget Committee, where it can survive the light of day. Oh, no. Let us vote it in right now. Let us reduce these targets. Let us reduce the amount you have got to save by $42 billion, the difference between the targets, or, if you want to use the difference of what we have already voted here—we have already voted for $38 billion in savings—reduce that to a maximum of $26 billion, or a more likely amount of somewhere between $6 billion and $12 billion will be all we have to save.

Let me repeat those last two figures because I want my colleagues to understand. Under this proposal, the only amount that the Congress will have to save, in my view at least, under the scenario which I think is proper is somewhere between $6 billion and $12 billion. And that is all you have to do to avoid the sequester. Why, of course, that lets Ronald Reagan off the hook. Of course, that lets Rostenkowski off the hook. And if you want taxes, Mr. President—and I think most of the authors of this amendment do not want taxes—this is the way to avoid the taxes.

Now, Mr. President, that is the current year. In the current year, it lets Ronald Reagan off the hook. How about next year? What does it do with respect to Ronald Reagan next year?

Well, Mr. President, next year we provide for a target of $130 billion. So, under the present Gramm-Rudman law, if I recall correctly, the target for fiscal year 1989 is $72 billion; is that correct?

Mr. HOLLINGS. Yes.

Mr. JOHNSTON. It is $72 billion, that is the target under the present law. Now, under this amendment, that target is up to $130 billion. So Ronald Reagan is supposed to come down to $150 billion and then to $130 billion.

So, on the face of it, you have got only $20 billion to save. Between this coming fiscal year 1988 and the final year of the Reagan administration, fiscal year 1989, $20 billion is all you have to save on the face of it.

But just to be sure, Mr. President, just to be sure, they provide that in no event will you have to save more than $36 billion from current policy. That is a special Ronald Reagan get-off-the-hook provision. It applies only to the Ronald Reagan administration. It does not apply after that.

My colleagues, understand what I am saying: There is a special provision for this year for Ronald Reagan and a special provision next year for Ronald Reagan. Next year it says the most you will have to save is $36 billion. You know, your target is only $20 billion difference between fiscal years 1988 and 1989—only $20 billion difference—but just to be sure there is this special provision that says "but in no event more than $36 billion."

Now, Mr. President, what happens when, as at least the polls show—and I do not want to make any predictions as to who is going to be elected President the next time, whether it will be a Democrat or a Republican, but I can tell you the polls presently show that the Democrats are ahead. So let us assume that those polls are correct—and I grant you they may not be. But suppose they take control, then what are the Democrats going to have to do on our watch?

Well, the first thing to understand, Mr. President, is there is no fail-safe mechanism. You do not have this $36 billion limit. The sky is the limit. When the Democrats come in, in fiscal year 1990, the sky is the limit. If it is a $60 billion difference, whatever it is, there is no limitation when the Democrats come in.

And look at what happens to the deficit. I mentioned that from fiscal year 1988 to fiscal year 1989, the budget deficit targets go down only $20 billion. But look what happens between fiscal year 1989 and fiscal year 1990. They go down $40 billion.

Mr. President, it is kind of amusing. As I mentioned, this year, fiscal year 1988, you probably do not have to save more than $6 billion to $12 billion. In the next year of Ronald Reagan's administration there is only $20 billion difference in the target with a $36 billion special provision relating only to the Ronald Reagan administration, but then you get to the next year and you have to save not $20 billion difference in the targets, but $40 billion.

And guess what, Mr. President, these accumulated errors—and, remember that each year we missed the target by an average of over $20 billion, over $20 billion we missed that target—and so you have to add that in as well. It says $40 billion you have got to save in fiscal year 1990, plus whatever is left over from the prior year. That is why the $36 billion limitation is so important.

If we run true to form in fiscal year 1990, which will be the first year of the Democratic administration, you will have to save $40 billion plus the accumulation from the prior year, which is expected to be, if we run true to form, at least $20 billion.

So the first year the Democrats come in, you have got to save $60 billion; $60 billion.

This year, Mr. President, you have got to save about $6 billion. This year, with Ronald Reagan, you have to save about $6 billion. When the Democrats come in the first year, you have got to save about $60 billion. Why, it is preposterous.

If you really want to know, this thing gets more and more absurd, Mr. President. You get to fiscal year 1991, and there is a $45 billion difference in the targets between fiscal year 1990 and fiscal year 1991. If you add to that the usual expectable difference in missing the target of $20 billion, fiscal year 1991, you have got to save $65 billion.

The same thing is true of fiscal year 1992, which is, again, a $45 billion difference in the target, and on your ordinary expectable difference of $20 billion and you get $65 billion you have to save.

Mr. President, I hope my colleagues understand what I am saying when I say this is a let-Ronald-Reagan-off-the-hook amendment; when I say that it is a smash-the-Democrats amendment; when I say it is a sweep-it-under-the-rug amendment. Because the 2 years of Ronald Reagan, you have got to save about, oh, $10 billion; $10 billion the first year, about $20 billion the second year. And then with a guarantee of not more than $36 billion. Then you come in the first year under the Democrats and it is going to be about $40 billion plus 20—probably $60 billion and then you go $65 billion. Mr. President, I think I am correct in these figures.

The distinguished Senator from Texas wanted to ask me a question and I am certainly ready to yield and have a discussion. If I am wrong about this, I would like to know just where I am wrong.

Does the Senator from South Carolina wish to ask a question?

Mr. HOLLINGS. No, I wish to give an answer when you get through. I will be glad to tell you why you are wrong.

Mr. JOHNSTON. If the Senator would do it by question, I will yield the floor in just a minute.

Mr. HOLLINGS. I will await the distinguished Senator.

Mr. JOHNSTON. Very well, Mr. President, I will yield the floor at this point to be instructed where I am wrong.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Louisiana yields the floor. The Senator from South Carolina is recognized.

Mr. HOLLINGS. I regret I was not able to hear the full comments of my distinguished colleague from Louisiana. I had to open a hearing of the Commerce Committee this morning, but I have now turned it over to the distinguished Senator from Tennessee. Arriving here on the floor, I listened to the Senator from Louisiana saying we are letting the President off the hook.

I am astounded. Of course, I've been trying to get him on the hook. If it were possible, I would have long since done it.

I thought we found a way last June when we had the House-Senate conference on the budget. The distinguished Senator from Louisiana agreed to the conference report. We had to voice vote it late that evening. The Senator from Ohio, Senator GLENN, and I, paired on the floor there around midnight, objecting because the assumptions, the economic projections were all kiltered in favor of letting the President and the Congress off the hook.

I tried to keep the President on the hook and voted against it. The distinguished Senator from Louisiana voted for it. Now he complains that we are going to review the present amendment without reference to the Budget Committee. But what would happen if we referred it to the Budget Committee?

My distinguished colleague and I are both members of that committee. Earlier this year in the Budget Committee we marked up a bill. I set forth proposals to keep the President on the hook, including proposals that are only now gaining headlines here in August. Of course, I'm talking about taxes.

The distinguished former Governor of Arizona has made a media splash this week by proposing a national consumption tax. Welcome to the club. I proposed precisely such a tax back in early spring, and I did so not hypothetically as a candidate but concretely as a ranking member of the Budget Committee.

There were seven votes in committee for this proposal, a proposal that would indeed have kept the President on the hook. We dedicated my plan and, if my memory serves me well, the "keep-the-President-on-the-hook" Senator from Louisiana was not there in committee nor did he vote on my proposal.

I was asking for a value added tax—the same tax that, politically, was the kiss of death for our good friend from Oregon, the former chairman of the Ways and Means Committee, Al Ulman. The proposal was voted down

and, instead, we have proceeded down the path of cutting and pasting, nickling and diming, a little bit here and a little a bit there, but now we have run out of smoke and we have run out of mirrors. The deficit, as the Senator from Louisiana points out, continues to grow and grow.

Nonetheless, I take heart from the bipartisan support in the Budget Committee for my proposal. It would have put the President on the hook. I only wish the Senator from Louisiana had been there.

Then day before yesterday we had the voice vote on the motion to table the alleged get-the-President-off-the-hook amendment offered by the Senator from Louisiana. That amendment said let us have a clean debt limit running through May of 1989. Of course the President would just love to be put on that hook. He'd love to be thrown into that briar patch. It would permit him to sit back with his veto pen, and the Congress would be just like tying two cats together by the tail and hanging them over a clothesline and letting them claw at each other between now and January 1989. The President would have a fine time talking about balanced budget amendments, line item vetoes, economic bills of rights, and so on, while he vetoes any measure that really does something to reduce the deficit.

So, day before yesterday, we kill the alleged get-the-President-off-the-hook amendment by the Senator from Louisiana. Because it was really a throw-the-President-into-the-briar-patch amendment. The President would have signed it in a skinny minute.

Now, the Senator from Louisiana makes a valid point when he notes that the proposed Gramm-Rudman-Hollings fix does not cut enough in fiscal 1988. The Senator is welcome to put in an amendment to correct that fault.

But I prefer to operate in the real world. The art and science of the Senate are compromise. We do not get all we want. Moreover, I dare say that even if the Senator from Louisiana's approach were adopted by the Senate as an amendment in the next 10 minutes, it would not get more than 20 votes over on the House side. And, remember, we are dealing with a two-bodied arrangement here and as a practical matter, we are going to be lucky to get a majority vote on the Gramm-Rudman-Hollings fix on the House side. It is frought with political undercurrents and opposition.

Our best hope is what the Senators from Florida, New Mexico, and Texas have fashioned for us: A good, constructive compromise, fashioned after what was already enacted by the Senate on a 63 to 36 vote in the original Gramm-Rudman-Hollings II. We have revised it, brought it up to date. I grant the Senator from Louisiana that we have eased up on some of the deficit targets. Likewise, my druthers would have been to reduce the $10 billion fudge factor down to $5 billion.

But Senator CHILES' approach has been reasonable throughout. For example, he insisted,

> I am not going to agree on a deficit target for fiscal 1987 until, in conference, we get from the Office of Management and Budget, and the Congressional Budget Office, their separate economic projections.

Yes, OMB and CBO have their bags of tricks. But let us not be unduly paranoid that OMB will abuse its role in the Gramm-Rudman-Hollings II process, or in the conference. In that conference, OMB will present its economic projections, and we will be sitting there in the majority. We will be able to confront OMB's figures with the already-stated figures by OMB and, thereby, you have a pretty good rein on the Office of Management and Budget.

I commend the Senator from Florida for fashioning that particular provision in this amendment. Mr. President, I urge my colleague from Louisiana not to hold up progress on the Gramm-Rudman-Hollings fix. As they say, a man convinced against his will is of the same opinion still. The fact is, the Senator from Louisiana was not for Gramm-Rudman-Hollings in any way, shape, or form. After all, Gramm-Rudman-Hollings is designed to get the President on the hook.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. JOHNSTON. Am I correct that the deficit figure this year is set by OMB subject only to the right of this conference and later to the floor to change that deficit figure?

Mr. HOLLINGS. GAO will review a joint OMB/CBO report and issue its own estimate of the deficit. OMB will then issue the final deficit estimate explaining its differences with GAO. Congress will specify 15 economic variables that OMB, CBO, and GAO must use in estimating the deficit and would have 5 days to change the final OMB deficit estimate through expedited procedures before a sequester took effect.

Mr. JOHNSTON. There are 14 variables I believe that are set out in the statute.

Mr. HOLLINGS. Fourteen.

Mr. JOHNSTON. Those are determined by OMB subject to the right of this conference.

Mr. GRAMM. If the distinguished Senator will yield, this first year we will have CBO and OMB both report in advance and we will write the average of those two baselines into this law.

Mr. HOLLINGS. And we could write in conference the actual deficit. That is our discretion.

Mr. JOHNSTON. All right. That only makes my point. It is an average between OMB and CBO, which can be changed in conference or by the full body but it is an average for this year. Is that correct?

Mr. HOLLINGS. Right.

Mr. JOHNSTON. All right.

Mr. BYRD. Will the Senator yield right there?

Mr. JOHNSTON. Yes.

Mr. BYRD. When talking about an average, cannot that be skewed? Talking about an average, let us say one says 10; one says 20. The average is 15. Suppose one says 10 and the other one says 16, or the other one says 14.

Mr. JOHNSTON. The majority leader makes the point. They not only can do it; they have done it every time. And the figures right now show that the latest CBO estimate is $186 billion for the deficit; the latest OMB figure for the deficit is $150 billion. To be sure, that was granted in January and they have not given us a late figure. But every time they have come out with skewed figures. They were $27 billion off in the economic projections as reported by CBO when the President submitted his budget. That is right, is it not? I mean not only can they do it, they do it every time. And we are building——

Mr. HOLLINGS. We were, too, and we loved it. That is how we got where we are this minute—trying to catch and keep ourselves on the hook. I objected. The Senator from Louisiana used OMB figures, not the Senator from South Carolina. I objected as vigorously as I knew how to our using OMB's bogus numbers in our budget resolution. In that fight, the Senator from Louisiana beat me. Yes, to meet constitutional requirements, OMB will play a major role in the new Gramm-Rudman-Hollings process. This is the best approach we have. If the Senator has a better idea, I would be glad to look at it.

Mr. CHILES. I would like to respond to the majority leader's question and I think it is a legitimate question. The question, as I understand it, is, should we be concerned about OMB skewing the average because where you say it is the average between OMB and CBO, then if OMB wants to take an absurd number or a different number, yes, they can skew it.

The Senator from Florida was concerned about that point and that is why in the year we were dealing with now the Senator from Florida had us write in that before the conference is completed CBO has to give us their new number, OMB has to give us their new number, and those numbers then become fixed. They cannot be changed again this year. So we are not allowing them to in September come up with another number, in October come up with another number. They give us

their number. Now, it is the average of those numbers. So, yes, OMB can give us a bad number if they want to but it is the average.

Remember, we are in the conference. We are there where we can then change the baseline number. We can change the sequester number. We sit in that conference in the majority, because we are the majority, in the House and Senate. The majority leader knows how the House feels about this question. I think he knows how the Senate feels about this question. He knows how the Senator from Texas, who will be chairing the conference on our side, feels about this question. So if they want to give that distorted average, we sit there, lock the number in so it cannot be changed any more, and if that number is wrong at the top end, we adjust the bottom. So that is the protection.

Is the $10 billion cushion there? It is. The $10 billion cushion is there. It can be taken out. The 150 can be adjusted to 140, 130. So however they want to cook the numbers—and we have OMB, which we trust, to give us a valid number—we are going to look at that number——

Mr. BYRD. We do not trust them.

Mr. CHILES. Excuse me. CBO. We have CBO there that we trust. And if you look at the language, it says, "The level of the gross national product is the amount determined by the committee of conference on the Balanced Budget and Emergency Control Act." So we are going to sit there and at that conference we are going to write that number.

You can raise a lot of fears about this, and the Senator from Louisiana has done that. I do not remember the Senator from Louisiana being a strong proponent of this process ab initio, from its beginning. And so I think he tends to look at it through a certain set of lenses. I do not think he tends to look at it as roses. I think he is looking for form. I think you can voice these concerns. They are legitimate. We need to try to answer them. But the concern about OMB cooking this number and us getting the President off the hook is a concern that I do not think is there because of the fact that we lock in that number. We in conference determine what that number is going to be: Where do we stand now? That is where I think it always has come back. How do you like your mother-in-law? Compared to whom? I think you have to ask that question. Where are we now? We are with what is supposed to be a target of 108 and we know we are not there. Next year that target goes down to 72. That is an election year. If we are talking about election year and about Democrats, how Democrats are concerned, I can read those TV ads next year: the target is supposed to be $72 billion. Democrats are in control of the House and the Senate. Where are they in regard to the deficit?

Mr. JOHNSTON. Will the Senator yield?

Mr. GRAMM. Will the Senator yield?

The PRESIDING OFFICER. The distinguished Senator from South Carolina has the floor.

Mr. HOLLINGS. Mr. President, the Senator from Louisiana has legitimate concerns. We all do. But we are now in the process of trying to find solutions to those particular concerns. We are not about in presenting this solution to foursquare the accuracy of the Office of Management and Budget. I objected in January that it was $27 billion off. It took them until June to acknowledge that. So I of all Senators understand the point being made by the Senator from Louisiana. But having made his particular points, now we have to get on with some kind of solution. It is a compromise. I do not happen to think we have much of a hook for President Reagan. If there is any, it is this Gramm-Rudman-Hollings procedure and it is only a symbol in a sense at the moment now effecting some discipline, but what we really need to do is put lead in the pencil.

Mr. GRAMM. Will the distinguished Senator yield?

Mr. HOLLINGS. Yes.

Mr. GRAMM. I would like to remark on some facts that I think are very relevant to the debate we are having right now. I have a page from the fiscal year 1987 sequester report printed in the Federal Register, Volume 51, No. 161, for Wednesday, August 20, 1986, that shows the difference between the OMB and CBO projections in 1986 of the fiscal year 1987 deficit. The report also explains what caused the difference. I think this is very revealing. About a year ago, a year minus 20 days or so, OMB said the deficit for fiscal year 1987 was going to be $156.2 billion. CBO said it was going to be $170.6 billion. These were the numbers that the Gramm-Rudman-Hollings process produced.

There were reasons for the difference between the two projections. Those reasons dealt with things like how to calculate appropriated entitlements, agriculture deficiency payments, Federal pay assumptions, and budget authority-to-outlay ratios. But I want my colleagues to take note of the fact that if you averaged the two deficit projections made last year by OMB and CBO, you get a deficit of $163.8 billion. In fact, the newest CBO preliminary estimate for the fiscal year 1987 deficit is $161 billion. The difference between the average of the projections made last year and the current CBO estimate is only $3 billion.

So I think it is important to note that last year, with no real constraints on any of the many items which you could differ on, such as deficiency payments and Federal pay, the process worked pretty well.

Mr. CONRAD. Mr. President, will the Senator yield?

Mr. GRAMM. Let me finish this point, because I think it is vitally important.

OMB projected a deficit of $156.2 billion; CBO projected a deficit of $170.6 billion. Today, the newest deficit estimate by CBO for fiscal year 1987 is $161 billion, while the average of the two deficit projections last year was $163.8 billion.

As the old cliche goes, "That isn't bad for Government work." In fact, if you wanted to give somebody credit for being the less inaccurate forecaster, OMB was closer to the current projections of the deficit than CBO was last year.

However, the point I want to make is not that the process worked pretty well last year. The point is that the measure before us eliminates the ability of the two agencies to treat many of the conflicting items, such as appropriated entitlements, differently.

In the amendment before us, we set out in law how OMB and CBO must estimate appropriated entitlements. Last year, appropriated entitlements accounted for $1.7 billion worth of the difference between the projections. We set out in law that OMB and CBO must assume that we advance the deficiency payments because we know we are going to do so. That was $1.5 billion of difference in the deficit estimates. We set out in law that OMB and CBO cannot overestimate Federal pay assumptions. Treatment of Federal pay explained $2.8 billion of the difference. We set out in law procedures for calculating the BA-to-outlay ratios; that caused $5 billion of the difference between the two projections.

In addition, there was a $2 billion difference in estimating revenues, with OMB being more conservative than CBO on tax revenues.

The point I want to make—and I hope my colleagues understand this—is that the amendment before us mandates procedures related to the treatment of farm deficiency payments, BA-to-outlay ratios, and appropriated entitlements; and those items explain most of the differences between the two estimates. These differences, that will be eliminated by the adoption of this amendment, explained $12 billion of the $14.2 billion of the differences in the projections last year.

In other words, had the current amendment before us been in effect, we would have eliminated virtually $12 billion of the $14.5 billion in the difference between the estimates. Interestingly enough, we would have increased the projection of the deficit and we would have failed to meet the target, and the headlines today would

read, "Budget Outperforms Projection; Federal Deficit Lower."

Quite frankly, I think that is a nice headline that I would like to see.

I want to summarize two important points. First, the process worked last year: $163.8 billion for the OMB/CBO average was only $2.8 billion greater than the current projection of the deficit. That is very good for anybody's work. In fact, my guess is that private estimators outside Government did not do as well in estimating the deficit.

Second, by setting out in law procedures dealing with appropriated entitlements, farm deficiency payments, Federal pay, and BA-to-outlay ratio, we eliminate $12 billion of the $14.5 billion difference between the deficit estimates calculated by OMB and CBO.

Finally, the distinguished Senator from Louisiana talks about meeting the deficit targets is easier this year and next year and harder in the future. Remember, that because of the tax reform bill and the projected fluctuation in revenues, the deficit estimate for fiscal year 1989 has increased by $17 billion. Then, between 1989 and 1990, the current services deficit declines by $15 billion; between 1990 and 1991, it decreases by $10 billion; between 1991 and 1992, the deficit is lower by $13 billion.

So the truth is that the easiest year to meet the target, if you want to call any year of deficit reduction easy, is going to be in the 1990 budget, and that is going to occur while we have a new President.

Mr. HOLLINGS. Mr President, the Gramm-Chiles-Domenici amendment has included a far greater dose of discipline than what we had in last year's version of Gramm-Rudman-Hollings II. It is a great improvement. It has been well fashioned. Our colleagues have waited all week. It has been a lot of hard work, and I commend them on their presentation.

Back to the original point made by my distinguished friend from Louisiana: I do not think that, even as good as it is, this new process is going to make OMB 100 percent accurate and honest. Nor do I think it is going to make Congress 100 percent accurate and honest. Likewise, I do not think it is going to put the President on the hook. But our best shot at binding the President and Congress into a mutuality of budget discipline is this Gramm-Rudman-Hollings II fix that we have before us.

The Senator from Louisiana had his chance the day before yesterday. We considered his proposed solution, and voted it down. Now let us get on with consideration of Gramm-Rudman-Hollings II. Let us get a time agreement so we can expedite debate, take a vote and get it to the House; because the rough work lies ahead of us in the conference with our colleagues on the other side of the Capitol.

Mr. CONRAD. Mr. President, will the Senator from South Carolina yield for a question?

Mr. HOLLINGS. I yield for a question by the distinguished Senator from North Dakota.

Mr. BYRD. Mr. President, before the Senator yields, will he yield to me?

Mr. HOLLINGS. I yield.

ORDER FOR RECESS

Mr. BYRD. Mr. President, we want to have a little conference at 10:30. I wonder if we could recess in 10 minutes for 30 minutes or so.

Mr. CONRAD. My question is fairly brief.

Mr. BYRD. Mr. President, if there is no problem with that, I ask unanimous consent that at 10:40 a.m. the Senate stand in recess for 45 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I yield to the distinguished Senator from North Dakota.

Mr. CONRAD. Mr. President, I think the Senator from South Carolina is to be applauded for the efforts he has made over the years to bring about deficit reduction.

I come at this from a little different direction than does the senior Senator from Louisiana, but I reach the same conclusion. That is, I favor a fix. I think we have to have the discipline by both the President and Congress in order to have deficit reduction. So I am in complete agreement with the Senator from South Carolina on that.

I think the concern I have may be shared by the Senator from South Carolina, and that is that we are not imposing enough discipline on the President or ourselves with this particular fix. The reason I come to that conclusion, which is the conclusion of the Senator from Louisiana, is the numbers. The numbers are very clear.

The target for fiscal 1988 is $150 billion, plus $10 billion of tolerance. That is $160 billion. In our budget resolution that has been passed, we are at $152 billion of deficit with the revenue, with the $19 billion of revenue. Without the revenue, we take away the $19 billion, and we are at $171 billion. So we have only $11 billion of difference between the budget resolution without the revenue and the Gramm-Rudman target for fiscal 1988 as contained in this fix.

It seems to me that it is a pretty easy matter to cook the numbers and the numbers have been cooked. It is a pretty easy matter to get a little bit of revenue to meet the $162 billion. That means you are taking this President off the hook. It also means you are taking this Congress off the hook because in 1987 the deficit is going to be $161 billion according to CBO. This target is $160 billion.

So it seems to me this resolution has two serious weaknesses: No. 1, no year-to-year deficit reduction from 1987 to 1988 which was contained as a central part of the previous Gramm-Rudman-Hollings deficit reduction plan. No year-to-year deficit reduction. And, No. 2, it takes the President off the hook on revenue with respect to this fiscal year and it takes us off the hook as well with that in that regard because we are so close on the budget resolution that has already passed.

It seems to me the fix would be an amendment that would lower the target for this year and perhaps next year as well.

I know the Senator from South Carolina had a proposal that had a lower target, and I am wondering if the Senator from South Carolina would be amenable to an amendment that would lower the target for this year.

Mr. HOLLINGS. The Senator from North Dakota is correct. I proposed just slipping this year's target of $144 billion 1 year for 1988 and put in $144 billion rather than $150 billion and put in only a $5 billion cushion rather than the $10 billion.

But I am committed to the Gramm-Chiles-Domenici-Hollings compromise. We are trying our best to get everyone together.

The Senator from North Dakota and I both support more discipline.

But coming from the North, he knows that we in the South feel like a minority. We are in a minority. Likewise, on this Gramm-Rudman-Hollings fix, we do not have the votes. We must get the cooperation of the White House. I would think the White House would resist very strongly on exactly the grounds expressed on this floor, on the grounds that it backs him into new taxes. So let us tread very carefully.

Let me repeat, I just do not think that we can do better than what the package proposed here by Senator CHILES, Senator DOMENICI, and Senator GRAMM.

Mr. CONRAD. Let me conclude by saying that I can understand why the Senator from Louisiana sees this as a bit of a sucker punch, that is, you take the pressure off the President this year and I am very much fearful that is precisely what this does.

Beyond that, frankly, from my perspective it also takes the pressure off Congress on year-to-year deficit reduction. So on both counts this fix disturbs me. I would much prefer lower targets for fiscal 1988, keep the pressure on both of us, keep the pressure on the President to accept revenue which he ought to do and keep the pressure on us to reduce spending which we ought to do.

Mr. HOLLINGS. Mr. President, I think it is a mistaken perception that

there is pressure to slash the deficit. It is a most frustrating experience. We only really act in the Congress when our feet are to the fire. The fact is, there is not enough popular outcry and pressure on the issue of the deficit. How else do you explain the President's ability to get away with his traveling carnival show—cutting up credit cards and so on—at the same time he is presenting budgets that are $27 billion over the deficit target. I would be embarrassed at so brazen a misrepresentation.

I am dismayed by it, but I am equally dismayed about the public's apparent willingness to tolerate it.

I talked to a member of the New York Stock Exchange yesterday afternoon. He said "We are counting on you on that fix." I said, "Baloney. You are not counting on us. Stocks are soaring with or without a fix." There is no real pressure from Wall Street to deal with the deficit.

And in the absence of any strong popular pressure, the Senator from North Dakota and I are not strong enough as individual Senators from our good States to create that pressure.

I thank the Senator and yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this is an interesting debate. I set out a series of figures and then tried to discuss those figures with my colleagues, and my colleagues have flown like a covey of quail.

Instead of getting real argument on the questions of whether my figures were correct, I was told things like, well, the senior Senator from Louisiana has opposed this bill all along; therefore, his motives must be suspect. He is looking at this through dark-colored glasses; therefore, the figures must not be correct.

Mr. President, that does not have anything to do with the figures nor does it have much to do with history.

First of all, let us deal with this question of whether you can trust OMB. Mr. President, OMB has consistently missed the targets by looking at this thing with rose-colored glasses.

Mr. President, in 8 of the last 9 years CBO has adjusted upwards OMB's deficit projections by an average of 16 percent, in 8 of the last 9 years. That includes not just Republicans but Democratic OMB's as well. It is endemic to OMB. The difference right now is actually OMB deficit projection this year was $150 billion which include 3 percent defense real growth. If you take out that defense real growth which has already been taken out by the committees, OMB's latest projects is $142 billion, CBO's is $186 billion. There is a $44 billion difference.

Mr. President, they have stated it right up front. You know what Dave Stockman said? He said, and this is from his book:

> Bookkeeping invention thus began its wondrous works. We invented the "magic asterisk." If we could not find the savings in time, and we could not, we would issue an IOU. We would call it future savings to be identified. It was marvelously created, a magic asterisk item would cost negative $40 billion, whatever it took to get to a balanced budget in 1984 after we toted up all the individual budget cuts we actually approved.

That is an interesting revelation by Mr. Stockman as to what they did, and it has been continued under this OMB director, too.

We are asked to trust these OMB directors. They are going to be OK. They are going to give us the right figures.

I say history shows something different.

Mr. President, I see the majority leader I think wants to put us in recess. We will be prepared to continue this discussion later today.

Mr. BYRD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BYRD. Mr. President, if the Senator wishes to retain the floor I ask unanimous consent after the following request the Senator retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESSES

The PRESIDING OFFICER. The hour of 10:40 having arrived, under the previous order, the Senate stands in recess for 45 minutes.

The Senate, at 10:40 a.m., recessed until 11:25 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BREAUX].

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess an additional 20 minutes.

There being no objection, at 11:25 a.m. the Senate recessed until 11:45 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BREAUX].

The PRESIDING OFFICER. The Chair in his capacity as a Senator from the State of Louisiana, asks unanimous consent that the Senate stand in recess for an additional 10 minutes.

There being no objection, the Senate, at 11:45 a.m., recessed until 11:55 a.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BREAUX].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Louisiana, asks unanimous consent that the Senate stand in recess an additional 10 minutes.

There being no objection, the Senate at 11:55 a.m., recessed until 12:04 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. REID].

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, under the order Mr. JOHNSTON is to retain the floor. While he is getting to the floor—he has been tied up—let me say that we have had a good conference. It took 1 hour and 25 minutes but I think we have saved time in the long run. The emphasis, I think, is on getting this measure adopted and sent to the conference. We do not have a lot of time or many days. So I fully anticipate rollcall votes this afternoon.

May I say once again, the joint leadership—I think I can say this, I have talked with Mr. DOLE and both managers—are opposed to nongermane amendments. This is no time; this is no vehicle for that. This is not just an ordinary—if I may use that word—debt-limit extension.

I hope Senators will schedule their afternoon accordingly. If we do not finish today, then we ought to stay in tomorrow, because this matter has to go to conference, it has to go back to both Houses, it has to go to the President's desk, it has to be signed by the President by midnight, next Thursday. It is a serious matter. So let us get busy this afternoon, stay in this evening if necessary, finish it, and then we will be out tomorrow.

Otherwise, I see no alternative but to say until we get this done.

Mr. President, Mr. JOHNSTON is in the process of writing an amendment, and Mr. CHILES, the distinguished manager of the resolution, is assisting Mr. JOHNSTON, through his staff, so as to expedite the writing of the amendment, and that will take possibly one-half hour or some such.

In the meantime, I urge other Senators who have amendments to come to the floor and call them up. I also urge Senators not to pack their bags too early this afternoon. I would not want to be away from this Senate when the votes occur this afternoon, and I would not want it said that this Senate packed up and went home leaving such a serious matter as this unfinished.

So this is not just an ordinary Friday afternoon. It is not an ordinary debt-limit extension. If the Social Security checks stop after next Thursday night and the veterans' checks stop and the United States is unable to meet its obligations, that will be the shot that will be heard around the world. It is going to recoil upon all of us. There are certainly some things that are more important than getting out this afternoon at 3 o'clock or 4 o'clock or 5 o'clock or 6 o'clock. I would think that Senators would

rather choose between finishing this measure today then coming in tomorrow or having to erode the August break.

Again, I say if this measure is not on the President's desk by midnight next Thursday, then we are in trouble. So Senators who have amendments, now is the time. This is the place. The hour is here. So do not come in at 4 o'clock saying, "I haven't had a chance to call up my amendment. Why don't we wait until Monday or Tuesday?" We are not going to do that. I would also urge those with nongermane amendments not to call them up.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, we have just had a caucus. Based on extended discussions in that caucus, I and Senator CONRAD and Senator WIRTH and several others will have an amendment, which is now being drafted, which will seek to give symmetry in treatment of the fiscal year 1988–89 with the other years.

It seems to me that the amendment now pending is the worst of absolutely all worlds, because under the rubric of being tough, of having a mandatory sequestration, what the amendment actually does is reduce the amount of savings that must be made to a point well below that which has already been voted in the form of the resolution by the Senate and by Congress—reduces it well below that which would cause the President to come to the table and seriously negotiate; and certainly, in my view, makes it totally impossible to get any real taxes.

The amendment we will propose will require real action in the first year as well as in the second year. So that we just do not sweep the problem under the rug.

Having said that, I am still an unreconstructed nonfan of the Gramm-Rudman process, whose main accomplishment I think has been to delay rather than to save money. It is perfectly true that the deficit has come down from about $220 billion the first year to maybe $186 billion this year, if you take CBO's latest number. But to attribute that to Gramm-Rudman targets, which is the essence of Gramm-Rudman, I think is totally a non sequitur, because Gramm-Rudman has clearly not worked to make the targets, and the essence of Gramm-Rudman is the targets.

The budget process already provided for a reconciliation process, for a savings process, and Congress was already persuaded that we needed to cut the deficit. So to say that the only reason you come down in the deficit is because of the existence of these targets, when we missed the targets by light years, I think simply does not follow.

Nevertheless, Mr. President, I do not propose to spend a great deal of time today—although I will debate it somewhat further—on the question of the advisability of Gramm-Rudman, because I think the Senate has probably made up its mind and I want to get my views on that clearly spread upon the RECORD. Once having done that, I do not propose on that point to delay the Senate.

So we will have an amendment, I would guess, in about an hour on that subject, and will bring it up and will debate it at that time.

In the meantime, I think Senators know that I had planned to offer an amendment to change the date of expiration of the debt limit, and I hope that amendment will not receive a great deal of opposition.

The present date in the pending amendment is October 1, 1988. So if the present legislation were passed and signed into law, the debt limit would expire in October 1, which happens to be the week on which I am sure the majority leader would like to adjourn the Senate for the elections of 1988.

I do not think I have to draw a picture or persuade Senators that that is about as bad a date as you could possibly pick.

The debt limit is always a piece of "must pass" legislation; and Senators, sensing that everybody knows that they will have to leave, could put on their little pet project to that debt limit, and there would be enormous pressure to adjourn the Senate and get out. So, Mr. President, we certainly should not do it at that time.

AMENDMENT NO. 647

Mr. JOHNSTON. Mr. President, in this interregnum, while we are waiting for the other amendments, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair asks the Senator from Louisiana if this amendment is to the pending amendment or to the bill.

Mr. JOHNSTON. I would have to ask the Chair: Where is it that the debt limit is stated?

The PRESIDING OFFICER. It is stated in the bill.

Mr. JOHNSTON. This would be, then, an amendment to the bill.

The PRESIDING OFFICER. The Senator is advised that it will take unanimous consent to set aside the first-degree amendment offered by the junior Senator from Texas.

Mr. JOHNSTON. Mr. President, I ask unanimous consent to do that. My purpose in doing it at this time is to use this time appropriately while we are waiting for the other amendment. I ask unanimous consent to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 647.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1 line 3, strike all after the word "That" and insert in lieu thereof the following: "during the period beginning on the date of the enactment of this Act and ending on May 1, 1989, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be equal to $2,800,000,000,000."

Mr. JOHNSTON. Mr. President, what the amendment does is to extend the date to May 1, 1989, and to alter the amount of the debt ceiling to conform with that date.

The rationale for May 1, 1989, is to get it past the election and far into the next administration, so that the administration team can be in place. May is usually a time when we are not into the emergency part of the session, and I think it would be an appropriate time to deal with an extension of the debt ceiling.

I think the argument is well understood, and I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Mr. President, as the distinguished Senator from Louisiana knows, the debt limit part of this bill is within the jurisdiction of the Finance Committee, not the Budget Committee. I need a few moments to clear this with the distinguished ranking member, Senator PACKWOOD, and to speak with Senator CHILES, the chairman of the Budget Committee.

We have negotiated long and hard on this Gramm-Rudman-Hollings fix, and I have assumed all along that our negotiations encompassed the underlying extension, not the amended one as suggested by Senator JOHNSTON.

I want to make sure that in anything I say, I am living up to my commitment to Senator CHILES, the Senator from Texas, and others. Obviously, if we got the fix in place and it was binding, the Senator from New Mexico is on record that he would like to see the debt limit extended as recommended in the amendment of the Senator from Louisiana. But also, I would like us not to extend the debt limit if the Gramm-Rudman-Hollings fix were not in place.

That is not the issue. I am just saying that it is kind of foolhardy to

have the debt limit come up all the time if we do have something fixed.

For now, I must indicate that we are not prepared for a few moments to proceed with the matter, either to debate it or to vote. It will not take us long, just a couple of minutes.

Mr. JOHNSTON. Would the Senator like to lay it aside for a few minutes?

Mr. BYRD. Mr. President, will either Senator suggest a time?

Mr. DOMENICI. For purposes of advising the distinguished ranking member, I would like just a few minutes to talk with him, and I am sure we can arrange something either on time limit or procedure rather rapidly with a vote.

Mr. JOHNSTON. Yes. If the majority leader will yield, I am prepared to vote at this time. As a matter of fact, if it is unacceptable, I am prepared to accept a voice vote. It depends. I do not know if there is opposition.

Mr. BYRD. I am just hoping we can stay on the bill and not drift away into morning business, Mr. President. There are times when morning business is fine.

We have a serious matter here and I hope we will not have Senators rushing to the floor wanting to make morning business speeches because that is the very way to discourage other Senators from coming to the floor. It does take time and it kind of lends the appearance that, well, we are going to spend the afternoon talking, we might as well go ahead and catch our planes.

So I have to say that I will object to any morning business speeches for the time being.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I have been conversing with Senator CHILES, Senator JOHNSTON, and Senator DOMENICI.

Personally, I support a debt extension through May 1989. I think it will give us a little more continuity than going month to month, week to week, or day to day, or even year to year.

I do not want to in any way interfere or jeopardize the agreement that has been reached among the Senator from Texas, the Senator from Louisiana, the Senator from New Mexico and the Senator from Florida, which I regard as very important.

So to the extent that the extension of the debt ceiling through May 1989 does not jeopardize the agreement between the principals, I support it. I will support it, clearly understanding that if it does jeopardize the agreement then I would pretty much leave it to the Senator from Florida and the Senator from New Mexico as to how they personally feel about it.

But from the standpoint of public policy, I think it is good policy to go to May 1989.

Mr. CHILES. Mr. President, let me say that the Senator from Florida actually wanted a much shorter date. I wanted a date of October 15 of this year, and I wanted that date for a very clear reason. I wanted there to be a supernova in which the reconciliation would come due and the debt ceiling would come due, and all those matters would meet at the intersection of the track, and then I was going to call my brother, because he had never seen a train wreck, either.

I wanted to bring those things into being. There were parties that did not agree with me on that. And sometimes parties do not always see the wisdom of my action. And so the date was set for September 1988.

I will have to say, just be frank with my friend from Louisiana and to the people on the other side, I do not consider this as a major break in the other parts of the agreement that we have negotiated. The Senator from Louisiana has raised concerns that I think could concern people that here we are going to have the country running out of the authority for its borrowing capacity just prior to an election. How that cuts, I do not know. I think we would agree with the remarks that others have made that I suspect both sides would be hasty to extend that, at least temporarily. I have seen that happen many times here.

I would like to find out what my good friend from Texas, who has just come on the floor, feels about that, and that is the amendment to extend it from September 1988 to May 1989. I do not know whether the Senator from Florida sees anything that changes. The September 1988 date I think, came out of the Finance Committee.

I would be persuaded by what the Senator from Texas felt on that. I think I should wait on his feelings on that.

Mr. BENTSEN. As I understand it, the proposed amendment is a simple temporary extension until May 1989; is that correct?

Mr. JOHNSTON. Yes.

Mr. BENTSEN. Mr. President, I believe that all Senators recognize that this country is facing a long series of unacceptably large deficits. This is a problem we must deal with. And in passing the deficit control legislation which has been proposed by the chairman and ranking member of the Budget Committee, we are taking important and difficult steps to deal with that problem. I do not know whether that legislation will have its desired effect. I am inclined to believe that it will, and I certainly hope that it will.

In any case, I think we need to give the new process a chance to work, and I think that one way to do that is to put aside for a protracted time our practice of having the debt limit come due periodically. I don't think it would be particularly fruitful to debate at this point the merits or demerits of the debt limit as a restraint on deficits. The important point is that we are, as a Senate, opting to throw our efforts behind a different type of mechanism—the automatic sequestration process.

It can, in my view, only confuse and undermine that process to continue to have debt limit crises while we are trying to achieve deficit reduction in another way. I realize that the bill before us continues the debt limit through a little more than a year from now, but I think under the circumstances that is too short. Next year will be the first one in which the entire budget process will be carried out in the context of an automatic sequestration law. It would be confusing—and possibly disruptive—to have a debt limit crisis arriving at about the same point as sequestration.

Consequently, it seems to me that the most reasonable approach is to extend the debt limit even further. I therefore support the amendment by the senior Senator from Louisiana to House Joint Resolution 324 which will increase the debt limit to $2.8 trillion through May 1, 1989. This amount is, in fact, the administration's recommendation transmitted in a letter to me, as chairman of the Finance Committee, from Secretary of the Treasury James A. Baker III. This action will give the new processes we are adopting here a chance to show their strengths or weaknesses. I hope the amendment will be adopted.

I ask unanimous consent that the letter from Secretary Baker supporting such an increase be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, July 8, 1987.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR LLOYD: I am writing to request that the Congress act by July 17 on legislation to extend the debt ceiling. The temporary debt limit enacted May 15 expires at midnight on July 17. The ceiling then reverts to the $2.1 trillion permanent ceiling—about $195 billion below the amount of debt that we estimate will be outstanding.

The Congress enacted only a two-month extension of the temporary debt limit in May to assure that there would be no other choice but to revisit the debt limit in mid-July. Enactment of a debt limit extension by July 17 is crucial to prevent disruptions

in Treasury debt management that would begin immediately. As described below, in the absence of timely Congressional action the Government could well default on its obligations on July 30, and almost certainly will do so on July 31.

The following actions must be taken if the Congress delays enactment of a debt limit increase. On July 17, we would have to (1) notify the 44,000 savings bond issuing agents not to sell any more bonds and (2) notify the Federal Reserve Banks to stop issuing State and local government series (SLGS) Treasury securities. Interruption in the availability of SLGS will result in lost interest earnings and interest arbitrage rebate problems for municipal entities. Furthermore, Treasury will be unable to invest or roll over maturing investments of trust funds and other Government accounts. For many of these accounts, Congressional action will be required if any resultant losses of investment income are to be restored.

Disruptions in Treasury's normal market financing will begin on July 20 with the postponement of the weekly bill auction. On July 23, $13.7 billion maturing bills will have to be redeemed in full. We will notify the thousands of smaller investors who use the Treasury book-entry system that they may receive a check instead of their requested reinvestment of the redemption proceeds in new bills. This will be done so that they can plan alternative investments. Smaller investors in book-entry Treasury bills maturing July 30 would also have to be notified, with the additional warning that the checks may not be honored on July 30.

The Treasury may well not have enough cash to pay off $13.7 billion of maturing weekly bills on July 30. Even if the Treasury managed to get through July 30, our balance would be perilously small and we would almost certainly run out of cash the next day. On July 31, in addition to defaulting on $10.2 billion of maturing marketable Treasury notes, the United States would not be able to honor $2.1 billion of benefit payments to veterans and supplemental security income beneficiaries. Further, on August 3, $17.1 billion of social security benefit payments could not be honored, nor could $4.2 billion of benefit payments to railroad, military and civil service retirees.

I should stress that defaulting on already outstanding, validly incurred obligations has far graver effects than halting operations of the Government when spending authority is allowed to lapse, such as when there is a delay in action on appropriations. A failure to pay what is *already* due will cause certain and serious harm to our credit, financial markets and our citizens, it is not remotely similar to a lapse in authority to incur *new* obligations.

I urge you to seek cooperation of your colleagues and to act quickly on a debt limit increase in order to prevent unnecessary problems and later default on the Government's obligations. We are requesting an increase in the current debt ceiling to: (a) $2,800 billion, an amount sufficient to get through May 1989, and avoid the burden of dealing with this time-consuming issue in the midst of election year schedules; or (b) $2,578 billion, the amount estimated in the President's Budget to be necessary for FY 1988.

I cannot overemphasize the damage that would be done to the United States' credit standing in the world if the Government were to default on its obligations, nor the unprecedented and catastrophic repercussions that would ensue. Market chaos, financial institution failures, higher interest rates, flight from the dollar and loss of confidence in the certainty of all United States Government obligations would produce a global economic and financial calamity. Future generations of Americans would have to pay dearly for this grave breach of a 200-year old trust.

Sincerely,

JAMES A. BAKER III.

Mr. CHILES. I would say that that answers any questions anybody poses to me. I would also support it. I would say I have no reservation or no concern if the body decided to vote that way.

Mr. DOMENICI. Mr. President, I want to indicate, as I said earlier, my only reluctance in supporting the Johnston amendment for further extension of the debt limit to the date specified was that we had negotiated our bipartisan approach to a budget fix over a shorter period of time for the debt extension. But I, too, believe that it should not interfere, especially since we still have to go to conference. And we are going to conference with the House debt extension that is shorter than the Johnston proposal and that, too, would have to be ironed out there along with the entire Gramm-Rudman-Hollings fix.

So I hope the Senate would adopt the Johnston amendment and I, too, support it.

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Louisiana [Mr. JOHNSTON]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Vermont [Mr. LEAHY], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] and the Senator from New Mexico [Mr. BINGAMAN] are absent because of illness in the family.

I further announce that, if present and voting, the Senator from Alabama [Mr. SHELBY], would vote nay.

The PRESIDING OFFICER. (Mr. HARKIN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 35, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—58

Bentsen	Graham	Packwood
Bond	Gramm	Pell
Boschwitz	Hatfield	Reid
Bradley	Heinz	Rockefeller
Breaux	Inouye	Roth
Bumpers	Johnston	Sanford
Byrd	Karnes	Sarbanes
Chafee	Kassebaum	Simpson
Chiles	Kennedy	Specter
Cochran	Kerry	Stafford
Cohen	Lautenberg	Stennis
Cranston	Levin	Stevens
D'Amato	Lugar	Thurmond
Danforth	McConnell	Trible
Daschle	Melcher	Wallop
Dodd	Metzenbaum	Weicker
Dole	Mikulski	Wilson
Domenici	Mitchell	Wirth
Durenberger	Moynihan	
Evans	Nunn	

NAYS—35

Armstrong	Gore	Murkowski
Baucus	Grassley	Nickles
Boren	Harkin	Pressler
Burdick	Hatch	Proxmire
Conrad	Hecht	Pryor
DeConcini	Heflin	Quayle
Dixon	Helms	Riegle
Exon	Hollings	Rudman
Ford	Humphrey	Sasser
Fowler	Kasten	Symms
Garn	McCain	Warner
Glenn	McClure	

NOT VOTING—7

Adams	Leahy	Simon
Biden	Matsunaga	
Bingaman	Shelby	

So the amendment (No. 647) was agreed to.

Mr. BYRD. Mr. President, if we may have the attention of all Senators, and I would particularly want the attention of the distinguished Republican leader and the two managers, I want to see if they agree with me on some matters here this afternoon.

Mr. President, this resolution has to be on the President's desk and signed by the President by midnight next Thursday or the whole thing collapses. We need to get this resolution passed this afternoon or be in tomorrow. Now, we cannot fiddle-faddle around with all kinds of nongermane amendments. This is not the vehicle for them, and it is not the time for them. I hope that the joint leadership will join in moving to table any, I say any, nongermane amendment.

I am sure there are nongermane amendments that are very important to Senators who have them, and they are important amendments. But if we do not get this resolution adopted and sent to the conference—and it has problems in conference with the House—and back to both Houses and on the President's desk by midnight next Thursday, Social Security checks are not going to go out, veterans' checks are not going to go out. This Government will not be able to pay its bills and it will not be able to borrow money. So I urge Senators, please do not call up nongermane amendments.

I hope I can get some expression of support from the Republican leader and from both managers. I hope they

will join me in urging Senators to stay around today and finish the work on this measure. Those who leave and are out of town when these important votes occur, may regret that. I would not want to be out of town when votes are occurring on this resolution today.

So I am going to yield to the distinguished Republican leader or either of the managers. I want Senators to understand that it is not just the majority leader standing up here saying we have to get the job done. I want others who are managing this resolution to state whether or not it is their intention to move on this afternoon and to do all we can to press for final action.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes, I yield.

Mr. DOLE. Let me underscore what the majority leader has said. It is my understanding that not only the managers of the so-called Gramm-Rudman-Hollings fix amendment, but also the managers of the debt limit, Senators BENTSEN and PACKWOOD, share the view that we ought to do it as quickly as we can. I know a lot of our colleagues on both sides have important appointments later in the day. I understand there are 13 amendments floating around. There may be two or three of those that are germane obviously and there is no quarrel with those. But I wanted to indicate my support for the position taken by the majority leader, and I hope that is shared by the managers on each side. I think it is safe to say I can speak for Senator PACKWOOD that he feels the same.

Mr. BYRD. I thank the Republican leader.

Mr. CHILES. I welcome the majority leader's comments. I welcome those of the minority leader. I think it is possible for us to buckle down and to finish this bill today, this evening, tonight. I think it could be done quickly if the spirit is here and people understand. The issues before us are clear. Certainly, I do not think we should have any nongermane amendments. There are even some that are in the realm of maybe calling them germane that I hope Members would decide now is not the propitious time to offer those with this question before us.

Mr. BYRD. I thank the Senator.

Mr. DOMENICI. Will the distinguished majority leader yield?

Mr. BYRD. Yes; I yield.

Mr. DOMENICI. I not only support what the Senator has just indicated but I welcome it. Actually, there are, from what I can tell, 8 or 10 amendments that are spurious to the underlying issue. We are trying on our side to narrow down even those amendments which are relevant to one or two with reference to such items as rescission authority and the like. Maybe we can get those down to only one. We are not there yet. But clearly we would like to finish today. We think we have struck a pretty good deal after an awful lot of work and we are now waiting. It seems that Senator JOHNSTON has the principal amendment which would alter the Gramm amendment. He says he will be ready shortly. Obviously, it his amendment will be debated. I know of no other amendments on our side to the proposal itself. Senator EVANS has amendments that are germane in the area of appropriation bills, line-item veto, and the like. I am not speaking about those. We know of no amendments on our side to the Gramm-Rudman fix deal that has been struck between Senator CHILES, myself, and the Senator from Texas.

Mr. BYRD. Mr. President, I would question as to whether or not a line-item veto amendment would be germane. I doubt that.

Mr. DOMENICI. Relevant.

Mr. BYRD. Well, relevant is one thing; a good many things can be relevant, but being germane. I say they have no business on this resolution. Now, if we get a line-item veto up here and it passes this Senate, we might as well go home because we are not going to get any time agreement on this resolution if that is adopted. So Senators had better sober up and prepare to vote to table some very attractive amendments perhaps. But we just cannot fiddle-faddle and get this resolution to conference and have it on the President's desk. I say that with a great deal of regret and trepidation. I know there will be some amendments probably that will be called up that I would like to support, too, but I am not going to support them.

Mr. DOMENICI. Will the distinguished majority leader yield?

Mr. BYRD. Yes.

Mr. DOMENICI. I want to make it clear from my standpoint in my negotiations and discussions with the distinguished Senator from Florida, perhaps I have improperly made a distinction between amendments that were clearly relevant to the processes that are involved such as rescission enhancement, line-item veto. I am not telling the leader that I support all of those. But when I said I will try to keep all nongermane amendments off, I did not have those two or three amendments in mind. I am trying to limit those, process related amendments to a very, very few—if possible one. Hopefully that one will not be the line-item veto. I did not include the line-item veto in the strict definition of germaneness and to that extent I have misstated myself and I want the leader to understand.

Mr. BYRD. Yes. Mr. President, I do understand. I respect the Senator. I still am going to oppose such amendments and I hope that the Senate will oppose them. Senators have a right to call them up. That is of course true, but we better think twice. And I hope Senators will join in tabling nongermane amendments.

The PRESIDING OFFICER. The question now occurs on the Gramm amendment.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, this is just to inform the Senate that in a short while, I hope to offer the Social Security trust funds management amendment bill, which was introduced on the first day of the 100th Congress by my distinguished colleague from Michigan, Mr. RIEGLE, and myself.

This is a measure which passed the Senate in the last Congress, only to fail in conference with the House.

As the distinguished managers of the legislation will know, this is a genuine problem as we deal with this debt ceiling situation. In 1984, during an impasse on the debt ceiling, the Treasury found itself cashing in some $5 billion in Social Security trust fund bonds, with a loss to the trust funds of some $382 million in interest payments, which was subsequently paid back.

Then, in September through November 1985, in a protracted crisis, the Treasury cashed in, in sequence, $6.9 billion in September, $4.8 billion in October, and $13.7 billion in November.

In round terms, some $25 billion in trust funds were cashed in to use for the general purposes of Government, which of course is not what they were there for. Yet, it is also the case that the Secretary of the Treasury may not have had any choice. We put him in this position.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

The Senate will please come to order. The Senator from New York will suspend while the Senate is brought to order. Will Senators please cease audible conversation?

Mr. MOYNIHAN. I thank the Chair. The Presiding Officer is very thoughtful to bring silence to the Chamber on this subject.

We are talking about the Social Security Trust Fund. There is not one Member of this body, we hope, who will not draw Social Security someday, and we represent some 33 million Americans who are drawing it. They have paid their money into this trust fund, and they have a right to know if it is being kept in trust.

On December 5, 1985, the General Accounting Office found that the Secretary's actions were "in violation of the Social Security Act." But then it went on to say: "We cannot say that

the Secretary acted unreasonably, given the extraordinary situation in which he was operating."

He found himself with the choice of cashing in Social Security trust funds or letting the U.S. Government default on its debt, an intolerable choice for a Secretary of the Treasury.

If there was a mistake made in 1984 and 1985, and there was, it is this: That Congress was not notified of this action of cashing in the trust funds. The trustees were not notified. We established in 1983 two public trustees. They were not notified. That was wrong. We wish they had not done that. Under Secretary Gould, in May 1987 testimony before the Finance Committee, said that the Treasury prefers this version to the House proposal, which would prohibit disinvestment under any circumstances.

My amendment simply says to the Secretary that he may not disinvest—except to pay out social security benefits. This amendment puts him out of the situation where he could disinvest for other reasons, but ought not.

This temptation will be large, Mr. President. The trust funds are in surplus now and will grow. The surplus will reach $1 trillion in the next decade. The temptation to use these moneys for a crisis situation, knowing that the crisis comes and there is this money to use, will grow. It is agreed that as the practice continues, confidence in the trust fund will diminish.

What will you say if your Social Security trust funds are used to pay for the Commodity Credit Corporation or to buy ships for the Navy or to subsidize the mass transit here and there—all things that are legitimate in Government but, nonetheless, not a legitimate use of trust funds?

The amendment provides, very simply, that bonds may be cashed in but only for the purpose of paying Social Security benefits. That is what they are there for.

What does this do for the Secretary of the Treasury? In this Senator's view—and I am chairman of the Subcommittee on Social Security and Family Policy—it removes the Secretary from an intolerable situation where he can, in effect, violate a trust, which he does not want to do, or he can let the Government default on its debt, which he does not want to do, and the only way he can avoid default is to violate the trust. That is not a position in which an officer of the U.S. Government should be placed.

So what this really does, Mr. President, is to put Congress on notice that when the debt ceiling is reached, the Secretary has no option: He cannot dip into Social Security to meet other Government obligations.

I emphasize that in the years ahead, this is going to be a very considerable temptation. In this legislation we will be talking about fiscal year 1991, which is not far away. In 1991, we now project a surplus of $260 billion—a quarter of a trillion dollars. That is why I am happy to be able to say, and honored to be able to say, that the distinguished chairman of the Committee on Finance supports this legislation. From the first, he has understood, to repeat, the intolerable position in which we put the Secretary of the Treasury and the question of the sanctity of these funds. These funds are for Social Security benefits and nothing else. They are a trust fund.

Under law, the most binding of the obligations is for a trustee to see that the trust funds are properly managed. The managing trustee, the Secretary of the Treasury, is—according to a statement from the General Accounting Office, the Comptroller—at risk of having to violate this obligation.

Our Secretary of the Treasury is a man of honor and impeccable standards in this kind of matter, and he ought not be put in that position. Our purpose here is to see that he is not.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. BENTSEN. If I might state as chairman of the Finance Committee I support the amendment that the Senator will be offering. As I recall we passed that through the Finance Committee last year.

Mr. MOYNIHAN. The Senator is right.

Mr. BENTSEN. It passed through the Senate twice and we went to conference with it.

I think its underlying objective—to keep those funds inviolate—is shared by all Members of the Congress.

There was, as I recall, some difference of viewpoint as to how you achieve that objective with the Members of the House. I am confident, if we pass it this time and take it to conference, we can resolve those differences and put it into the law.

I certainly support the objective of the distinguished Senator from New York in that regard.

Mr. MOYNIHAN. I thank the chairman, who could not be more supportive in this throughout.

I see my distinguished cosponsor is here and, Mr. President, in the presence of the Senator from Michigan I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. I thank the Chair.

Mr. President, I want to say to my colleague from New York that I am very pleased that we are able to join together in offering this today.

I thank the chairman of the Finance Committee for his support of the amendment and his belief that this can be worked out in a satisfactory way in conference.

It is just wrong to constantly hold people on Social Security hostage to these extensions of the debt limit. The Social Security Fund is separately financed. The money is there for that purpose and that purpose alone. It ought to be used. It ought not to be in any way threatened, jeopardized, or interrupted because of these needs to extend the debt limit.

So I am very hopeful we can see this enacted into law. We have passed it before. It is something that our seniors want and deserve and they ought not be be held hostage in these circumstances, and this is a way to correct that problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to emphasize a point that has been made by my friend, the Senator from Michigan. With this amendment and with our prospective surplus in the trust fund, whatever happens with these periodic, systematic debt-ceiling crises, it will not be a crisis for the Social Security recipients. In a situation where a debt ceiling has been reached and the Assistant Secretary of Treasury is saying either we get this debt ceiling changed or no Social Security checks go out Monday morning, he has a right to disinvest, that is to cash in sufficient trust fund assets in order to send out the checks. That is what the trust fund is for.

The Senator from Michigan is quite right. Senior citizens have every reason to expect that their benefits are there, they are paid for, and they will be paid out. Suddenly, they have to read in the paper they will not go out this Monday. What on earth is happening?

In all truth, most persons in retirement understand it and there will not be any great difficulty. But there are many persons who are frail and apprehensive generally about their situation who will not understand it and who should not have to understand it. What those citizens most need is the assurance: do not worry about that, that is taken care of, we have nothing to worry about here.

Indeed they ought not to worry and with this legislation they will not.

Mr. President, as the distinguished managers of the legislation know, we are waiting only for clearance from the other side of the aisle before we proceed, and we know that clearance will be forthcoming.

I see my chairman emeritus is on the floor.

Mr. DOMENICI. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. DOMENICI. I am in a predicament in that I am not a ranking member of the Finance Committee,

and Senator PACKWOOD is in the process of reviewing the Senator's amendment. We are supposed to hear from him shortly as to whether or not he has any objection. I think that will be forthcoming rather quickly.

Obviously, I cannot speak for him. I do not feel disposed to say OK until at least he has had a chance to look at it. I feel, as the Senator does, rather positive that he is not going to have any objection. I think he deserves an opportunity to review it.

Mr. MOYNIHAN. Of course.

Does anyone have a suggestion how we might proceed?

Mr. DOMENICI. We understand he is on the phone at this moment with his staff being briefed and we should just be momentarily delayed.

Mr. MOYNIHAN. If that is the case, Mr. President, then it would not be inappropriate for me to hold the floor unless the distinguished Senator from Texas wishes to speak.

Mr. BENTSEN. No. That is fine.

Mr. MOYNIHAN. We will be dealing with this matter shortly.

I would like to take the opportunity to note, with respect to the availability of the Social Security Trust Fund assets to pay benfits, that under this amendment, such assets would also be available to pay administrative expenses. The point here would be that it would be of little avail that there are moneys to cover the checks if, in fact, there is nobody working in the Social Security offices to send them out. So we provide that the work force continue in the same manner.

We also provide that in the situation where FICA taxes are received by the Treasury as they are continuously, they cannot be invested if we have reached the debt ceiling, they just have to be held. However, the amendment requires that these tax receipts be invested as soon as possible and that there is a permanent appropriation to restore the trust funds to the level at which they would have been had no disinvestment occurred

It would also restore assets that were redeemed, as well as any interest lost as a result of the redemption.

May I just walk the Senate through that point. Moneys are constantly coming in from FICA taxes, payroll taxes, and those moneys are typically turned over and paid out in benefits. Any surplus not needed is invested in this particular bond that was established half a century ago, which is always redeemable at par. It is a Treasury bond, but it never drops below par. It is the safest possible investment in the world, I would like to think, but in normal circumstances there is no need to cash those bonds because the cash flow is quite sufficient for what is needed. As a matter of fact, on a regular basis now each month more money comes into the trust funds than goes out. So if a bond is cashed in because incoming tax receipts that are arriving in the mail cannot be invested, you lose interest. Well, we have provided that such lost interest be paid back. The trust fund is made whole for any interruptions in its normal operations that come about because the debt ceiling has been reached and it is not possible to invest the FICA taxes and the trust fund assets have to be disinvested.

If this seems an abstraction, please remember that it happened in 1984 and it happened in 1985, and in not small sums, $5 billion, $25 billion. As that distinguished Senator from Illinois once said on this floor, a billion here and a billion there and pretty soon you are talking about real money. And this is indeed real money.

The great failing in 1984 and 1985 is that Congress was not told. It was embarrassing to the Treasury, painful to the Treasury. It is not their manner. They do not proceed in such ways. But in this case they did.

So we, therefore, provide in this measure that the managing trustee will be required to notify the Social Security Board of Trustees and the Congress 15 days in advance of an anticipated disinvestment.

I do not think I make legislative history through a statement on the floor, but perhaps I could note at this time that when we say "notify the Congress," what we have in mind is notifying the Finance Committee in the Senate and the Committee on Ways and Means in the House. These are the tax committees, and they have jurisdiction over this legislation, and when everything is in the open, we will feel secure and there is no need to be apprehensive. It is when things are done that are not reported and indeed when things are done that do not have any pre-prepared solution that you get in trouble.

When the trust funds were disinvested in 1984 and again in 1985, there was no established procedure for making up the lost interest. We created such a procedure. We enacted legislation. Today, we propose to refine that procedure by prohibiting the premature disinvestment of the Social Security Trust Funds, except to pay out Social Security benefits.

AMENDMENT NO. 648

(Purpose: To specify the treatment of the Social Security Trust Funds in the event that the statutory limit on the public debt is reached)

Mr. MOYNIHAN. Mr. President, in the circumstance, and seeing the cheerful confidence of my friend, Senator DOMENICI, I send this amendment to the desk and ask for its immediate consideration for myself and Mr. RIEGLE.

The PRESIDING OFFICER. Is the Senator from New York asking consent to set aside the pending amendment?

Mr. MOYNIHAN. Mr. President, I regret that I did not ask for consent to set aside the pending amendment that we might consider this one item I would now send to the desk.

The PRESIDING OFFICER. Is there objection to setting aside the present amendment? Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for himself and Mr. RIEGLE, proposes an amendment numbered 648.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new title:

TITLE .—SOCIAL SECURITY TRUST FUNDS

SEC. . SHORT TITLE.

This title may be cited as the "Social Se-

SEC. . INVESTMENT AND RESTORATION OF TRUST FUNDS.

(a) Subsection (d) of section 201 of the Social Security Act (42 U.S.C. 401(d)) is amended—

(1) by striking out "(1) on original issue" and inserting in lieu thereof "(A) on original issue",

(2) by striking out "(2) by purchase" and inserting in lieu thereof "(B) by purchase";

(3) by striking out "It shall be" and inserting in lieu thereof "(1) It shall be", and

(4) by adding at the end thereof the following new paragraphs:

"(2) If—

"(A) any amounts in the Trust Funds have not been invested solely by reason of the public debt limit, and

"(B) the taxes described in clause (3) or (4) of subsection (a) with respect to which such amounts were appropriated to the Trust Funds have actually been received into the general fund of the Treasury of the United States,

such amounts shall be invested by the Managing Trustee as soon as such investments can be made without exceeding the public debt limit and without jeopardizing the timely payment of benefits under this title or under any other provision of law directly related to the programs established by this title.

"(3)(A) Upon expiration of any debt limit impact period, the Managing Trustee shall immediately—

"(i) reissue to each of the Trust Funds obligations under chapter 31 of title 31, United States Code, that are identical, with respect to interest rate and maturity, to public debt obligations held by such Trust Fund that—

"(I) were redeemed during the debt limit impact period, and

"(II) as determined by the Managing Trustee on the basis of standard investment procedures for such Trust Fund in effect on the day before the date on which the debt limit impact period began would not have been redeemed if the debt limit impact period had not occurred, and

"(ii) issue to each of the Trust Funds obligations under chapter 31 of title 31, United States Code, that are identical, with respect

to interest rate and maturity, to public debt obligations which—

"(I) were not issued during the debt limit impact period, and

"(II) as determined by the Managing Trustee on the basis of such standard investment procedures, would have been issued if the debt limit impact period had not occurred.

"(B) Obligations issued or reissued under subparagraph (A) shall be substituted for obligations that are held by the Trust Fund, and for amounts in the Trust Fund that have not been invested, on the date on which the debt limit impact period ends in a manner that will ensure that, after such substitution, the holdings of the Trust Fund will replicate to the maximum extent practicable the obligations that would be held by such Trust Fund if the debt limit impact period had not occurred.

"(C) In determining, for purposes of this paragraph, the obligations that would be held by a Trust Fund if the debt limit impact period had not occurred, any amounts in the Trust Fund which have not been invested, and any amounts required to be invested under paragraph (2), shall be treated as amounts which were required to be invested upon transfer to the Trust Fund.

"(4) The Managing Trustee shall pay, on the first normal interest payment date that occurs on or after the date on which any debt limit impact period ends, to each of the Trust Funds, from amounts in the general fund of the Treasury of the United States not otherwise appropriated, an amount determined by the Managing Trustee to be equal to the excess of—

"(A) the net amount of interest that would have been earned by such Trust Fund during such debt limit impact period if—

"(i) amounts in such Trust Fund that were not invested during such debt limit impact period solely by reason of the public debt limit had been invested, and

"(ii) redemptions and disinvestments with respect to such Trust Fund which occurred during such debt limit impact period solely by reason of the public debt limit had not occurred, over

"(B) the sum of—

"(i) the net amount of interest actually earned by such Trust Fund during such debt limit impact period, plus

"(ii) the total amount of the principal of all obligations issued or reissued under paragraph (3)(A) at the end of such debt limit impact period that is attributable to interest that would have been earned by such Trust Fund during such debt limit impact period but for the public debt limit.

"(5) For purposes of this section—

"(A) The term 'public debt limit' means the limitation imposed by subsection (b) of section 3101 of title 31, United States Code.

"(B) The term 'debt limit impact period' means any period for which the Secretary of the Treasury determines that the issuance of obligations of the United States sufficient to orderly conduct the financial operations of the United States may not be made without exceeding the public debt limit.".

(b) Subsection (a) of section 201 of the Social Security Act is amended by adding at the end thereof the following new sentence: "All amounts so transferred shall be immediately available exclusively for the purpose for which amounts in the Trust Fund are specifically made available under this title or under any other provisions of law directly related to the programs established by this title.".

SEC. . REPEAL OF NORMALIZED TAX TRANSFER.

(a) Subsection (a) of section 201 of the Social Security Act is amended by striking out the matter following clause (4) and inserting in lieu thereof the following: "The amounts appropriated by clauses (3) and (4) shall be transferred from the general fund of the Treasury of the United States to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) shall be transferred from the general fund of the Treasury to the Federal Disability Insurance Trust Fund, upon receipt by the general fund of taxes specified in clauses (3) and (4) of this subsection (as estimated by the Secretary). Proper adjustments shall be made in amounts subsequently transferred to the extent amounts previously transferred were in excess of, or were less than, the taxes specified in such clauses (3) and (4). All amounts so transferred shall be immediately available exclusively for the purpose for which amounts in the Trust Fund are specifically made available under this title or under other provisions of law directly related to the programs established by this title.".

(b) The amendment made by subsection (a) shall take effect on July 1, 1990.

SEC. . FAITHFUL EXECUTION OF DUTIES BY MEMBERS OF BOARD OF TRUSTEES OF TRUST FUNDS.

Section 201(c) of the Social Security Act is amended by striking the last sentence and inserting the following: "A person serving on the Board of Trustees (including the Managing Trustee) shall not be considered to be a fiduciary, but each such person shall faithfully execute the duties imposed on such person by this section. A person serving on the Board of Trustees (including the Managing Trustee) shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.".

SEC. . REPORTS REGARDING THE OPERATION AND STATUS OF THE TRUST FUNDS.

Subsection (c) of section 201 of the Social Security Act is amended—

(1) by striking "once" in the fourth sentence and inserting "twice",

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(3) by redesignating paragraphs (3), (4), and (5) as subparagraphs (D), (E), and (F), respectively,

(4) by inserting after subparagraph (B) (as redesignated by paragraph (2) of this section) the following:

"(C) Report to the Congress as soon as possible, but not later than the date that is 30 days after the first normal interest payment date occurring on or after the date on which any debt limit impact period for which the Managing Trustee is required to take action under paragraph (3) or (4) of subsection (d) ends, on—

"(i) the operation and status of the Trust Funds during such debt limit impact period, and

"(ii) the actions taken under paragraphs (3) and (4) of subsection (d) with respect to such debt limit impact period;",

(5) by striking out "in paragraph (2) above" and inserting in lieu thereof "in subparagraph (B) above",

(6) by inserting "(1)" after "(c)", and

(7) by adding at the end thereof the following:

"(2) The Managing Trustee shall report monthly to the Board of Trustees concerning the operation and status of the Trust Funds and shall report to Congress and to the Board of Trustees not less than 15 days prior to the date on which by reason of the public debt limit, the Managing Trustee expects to be unable to fully comply with the provisions of subsection (a) or (d)(1), and shall include in such report an estimate of the expected consequences to the Trust Funds of such inability.".

SEC. . ELIMINATION OF UNDUE DISCRETION IN THE INVESTMENT OF TRUST FUNDS.

(a) Section 201(d) of the Social Security Act is amended, in the first sentence—

(1) by inserting "immediately" after "to invest"; and

(2) by striking ", in his judgment,".

(b)(1) Paragraph (2) of section 201(d) of the Social Security Act, as added by this title, is amended to read as follows:

"(2) If any amount in either of the Trust Funds is not invested solely by reason of the public debt limit, such amount shall be invested as soon as such investment can be made without exceeding the public debt limit and without jeopardizing the timely payment of benefits under this title or under any other provision of law directly related to the programs established by this title."

(2) The amendment made by paragraph (1) shall take effect on July 1, 1990.

SEC. . SALES AND REDEMPTIONS BY TRUST FUNDS.

Section 201(e) of the Social Security Act is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2)(A) The Managing Trustee may effect any such sale or redemption with respect to either Trust Fund only for the purpose of enabling such Trust Fund to make payments authorized by this title or under any other provisions of law directly related to the programs established by this title. If either of the Trust Funds holds any amounts which are not invested by reason of the public debt limit, the Managing Trustee is nevertheless directed to make such sales and redemptions if, and only to the extent, necessary to assure timely payment of benefits and other payments authorized by this title or by any other provisions of law directly related to the programs established by this title, but the principal amount of obligations sold or redeemed pursuant to this sentence shall not exceed the principal amount of obligations that would have been sold or redeemed under normal operating procedures in order to make such payments.".

SEC. . EFFECTIVE DATE.

Except as otherwise provided by this title, the amendments made by this title shall take effect on the date of enactment of this Act.

Mr. RIEGLE. Mr. President, I am pleased to join with the Senator from New York [Mr. MOYNIHAN], in offering an amendment to the debt ceiling legislation which would protect Social Security beneficiaries and the Social Security trust fund from being used as political pawns when the Government reaches the debt limit ceiling. This amendment would prevent a repeat of events that took place 2 years ago when the Treasury Department redeemed assets from the trust fund to keep the Government from running out of money. It would also prevent Social Security beneficiaries from being frightened that their Social Se-

curity checks will not be issued every time the Congress uses the extension of the debt limit ceiling for political objectives.

For several months in 1984, and again in 1985, the Treasury Department failed to invest the amounts that were credited to the Social Security trust funds. Instead of being invested to ensure that the program would meet the future needs of workers, surplus revenues from workers' contributions were used to pay for general government activities and a non-interest-bearing credit was assigned to the trust fund. This resulted in interest losses estimated at about $875 million. In response to our questions about these unauthorized raids, Congress discovered the astounding fact that the same abuse had occurred with the debt ceiling was reached in 1984, resulting at that time in a $440 billion loss of interest. It is unconscionable that neither Congress nor the Board of Trustees had been informed of any of these episodes and that no steps had been taken to ensure repayment of the lost interest. Fortunately, Congress has since mandated that these losses be repayed.

However, these highly disturbing activities by the Treasury Department must not be allowed to occur in the future. Not only do they threaten the financial stability and structure of the Social Security System, but they undermine public confidence in the program and indeed confidence in the integrity and competence of government. Millions of Americans who contribute to the Social Security System and depend on it to provide them with a decent standard of living in their retirement years would agree that the current practice is not a proper way to ensure that the funds owed them will be there when they need them.

I believe that ultimately Congress should restructure the Social Security System by making the Social Security Administration an independent agency. This would largely do away with the conflict of interest that allowed the Secretary of the Treasury to believe he could authorize these raids. In the meantime, however, there is urgent need for action to ensure that this particular threat cannot occur again. There is currently nothing to prevent Treasury from engaging in the same kind of manipulation again. For this reason, I am cosponsoring this amendment by Senator MOYNIHAN. Several provisions in this legislation would ensure protection of the trust funds.

Mr. MOYNIHAN. Mr. President, I believe we have set forth the provisions.

Mr. DOMENICI. Mr. President, I have conferred with the distinguished ranking member of the Finance Committee, Senator PACKWOOD. He has no objection.

My understanding is the Senate has adopted this approach to Social Security trust fund investment heretofore but it has not been acceptable to the House in conference. We have no objection to it.

Mr. BENTSEN. Mr. President, as the manager of the bill for the majority, let me point out that we passed this amendment twice last year in the Senate, and had approved it in the Finance Committee. I think the objective of the amendment is excellent. I strongly support it.

What we want to do is be sure that Social Security funds are held inviolate. That is the purpose. I am confident in going into conference that the House shares those objectives. The problem before was a difference over the means of achieving them. I feel confident that we can reconcile those.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from New York.

The amendment (No. 648) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 649

(Purpose: To lower the deficit targets for fiscal years 1988 and 1989)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk on behalf of myself; the Senator from North Dakota, Mr. CONRAD; and the Senator from Colorado, Mr. WIRTH and Mr. KERRY and ask for its immediate consideration.

The PRESIDING OFFICER. If the amendment is not an amendment to the pending Gramm amendment, a unanimous-consent request would have to be granted to set-aside the pending amendment.

Mr. JOHNSTON. Mr. President, parliamentary inquiry: Is the Gramm amendment presently pending?

The PRESIDING OFFICER. Yes, the Gramm amendment is the pending amendment.

Mr. JOHNSTON. Then this amendment is to the Gramm amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. CONRAD, and Mr. WIRTH, proposes an amendment numbered 649 to amendment No. 645.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58 strike lines 1 through 5 and insert the following:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1987, the lower of $140,000,000,000 or $36 billion less than the baseline estimate of the deficit in a manner to be determined by the conferees;

"(B) with respect to the fiscal year beginning October 1, 1988, $120,000,000,000;"

and section (d)(1) of the Balanced Budget Act of 1985 is amended by striking out "$10,000,000,000" each place it appears and inserting in lieu thereof "$5,000,000,000".

(2) The amendment made by paragraph (1) shall be in effect only with respect to fiscal year 1988.

Mr. JOHNSTON. Mr. President, what this amendment does is require that, in fiscal year 1988, at least $36 billion in policy reductions be made from the baseline deficit.

The way we achieve that is to amend the fiscal year 1988 target and to make that target $140 billion in lieu of the $150 billion stated in the present amendment and to reduce the cushion from $10 to $5 billion.

With present economics, that is assuming a deficit which is CBO's current number of $186 billion, that would give you a policy reduction of $41 billion.

But we also have language that says $36 billion below the baseline, whichever is less.

So that if the baseline deficit turns out to be not $186 billion but something higher than that, or indeed $186 billion, then the $36 billion language would govern.

We also provide that with respect to the fiscal year 1989 deficit, that the target shall be $120 billion instead of $130 billion. We do not change the fail-safe of $36 billion for the second year.

Mr. President, I discussed at some length this morning the fact that the pending amendment, while cloaked in strong language of making the President come to the bargaining table and that it is taking a strong swipe at the size of the deficit—actually it is a step backward.

If you believe in the Gramm-Rudman process or if you do not believe in the Gramm-Rudman process, you must accept the fact which is stated in the figures printed in this amendment that the Gramm amend-

ment is a step backward because it has a maximum reduction of $26 billion. A minimum reduction, depending on the economics, depending on what OMB does, depending on what the conferees do—it may require zero reduction. But is has a maximum reduction of $26 billion because that assumes that the biggest deficit projection, which is now the projection of the Congressional Budget Office at $186 billion, if you use that projection then you only have to make a savings of $26 billion and that is compared to the Senate budget resolution, which has already been passed and reconciliation instructions have already been issued to the various committees, which require a cut of $38 billion.

So, why should we take a step backward from that strong action to a weaker action? If we cannot take that action in this, a nonelection year, what are we going to do next year when it is an election year? We will do zero next year and not much this year and present, indeed, an ever-growing crisis for the following year.

Mr. President, to me the idea of stepping back, the idea of saying we cannot act this year, would be to confirm the worst suspicions that Gramm-Rudman skeptics had all along, and that is that you are going to talk tough about procedure, but when you get up to the actual cutting of the deficits, you are going to wilt like the roses in the sunlight; you are going to step back from that tough challenge and not do what can be done.

It can be done this year, Mr. President. The Congress has already made all those decisions, at least in the budget resolution.

We have taken the tough votes. We have said by a majority vote of both Houses, $19.3 billion worth of taxes. That is tough action.

It is time to carry that out, it seems to me, by not reducing the size of the action already taken. I think it is just as clear as it can be and I hope my colleagues will see it the same way.

I hope that the authors of this amendment, of the Gramm amendment, will come with us and have a bigger cut and not a lesser cut.

Mr. President, I send a modification to the desk and ask the modification be reported.

The PRESIDING OFFICER (Mr. DIXON). The amendment as modified will be stated.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes a modified amendment (No. 649).

Mr. JOHNSTON. I ask unanimous consent that further reading of the amendment as modified be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 58 strike lines 1 through 5 and insert the following:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1987, the lower of $140,000,000,000 or $36 billion less than the baseline estimate of the deficit in a manner to be determined by the conferees;

"(B) with respect to the fiscal year beginning October 1, 1988, $120,000,000,000;"

At the appropriate place, insert "and section (d)(1) of the Balanced Budget Act of 1985 is amended by striking out '$10,000,000,000' each place it appears and inserting in lieu thereof '$5,000,000,000' ".

(2) The amendment made by paragrapn (1) shall be in effect only with respect to fiscal year 1988.

Mr. JOHNSTON. This is a technical correction, second page, submitted to add on line 14 the words "At the appropriate place, insert".

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. JOHNSTON. So it does not change the substance of the amendment just described.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI I wonder if I may ask the principal sponsor of the amendment if he would like to enter into a time agreement with reference to the amendment.

Mr. JOHNSTON. Mr. President, I do not intend to speak a long time and Senator WIRTH is not here on the floor. At this point, I do not know whether he is going to want time.

I would rather not enter into that at this time. I think, frankly, we can dispose of this quickly.

I think the issue is clear and understandable. We discussed it in our caucus.

Why do we not debate it for a little while and if it looks like it is getting out of hand, I will agree to any reasonable time limit.

Mr. DOMENICI Mr. President, I am not going to speak very long on this amendment. Let me just suggest to the U.S. Senate that those of us who were totally committed to reinstating a mandatory trigger have negotiated hard and long to come up with a bipartisan compromise. I regret to say my friend from Louisiana, the principal sponsor of this amendment, is not one of those. He has never been for it. He is not for it and said he was not for it yesterday.

Now this Gramm-Rudman-Hollings automatic trigger is before the Senate. The distinguished Senator from Louisiana indicated clearly yesterday that he does not favor the Gramm-Rudman-Hollings sequester. He went to great lengths to discuss with us that he thought the process would work without it. As a matter of fact, he read language from a year ago saying that Gramm-Rudman-Hollings would work without an automatic trigger.

So, let me remind the Senate that those who really want to make the trigger work have gone to the bargaining table, not once, and not 1 day, not 1 week, but for 2 weeks. From that negotiating as best we could with us full understanding, not only of the budget, of the numbers, but of the institution and of the support—and from whence the support for Gramm-Rudman-Hollings automatic sequester comes in the U.S. Senate—we came forth with an agreement that we think is a fair one.

It puts the United States on a path of deficit reduction. As I said yesterday, we could sit around here and quibble about whether $5 billion more a year is better for America; $10 billion more a year in deficit reduction is better for America. But I do not think there is any question that if we can implement the compromise that Senators CHILES, DOMENICI, and GRAMM, working with others—if we can implement that, that would be historic. I do not believe the marketplace would quibble one bit with a $150 billion target and a $130 billion target, and thereafter a path to zero.

I think they would raise the flag of victory saying we have finally got something.

Frankly, along comes the Senator, my good friend, a very distinguished Senator who does not even support the process and he is now down here telling the Senate he has the fix for it. He has the cure for it.

Well, he sure does. I guarantee what it is calculated to do is to get no Gramm-Rudman-Hollings sequester process because there is not support, there would not be support for the numbers that he has put in and the way he has approached it. Those who are going to vote for it, I hope they are prepared if they are going to vote to change the compromise. I hope they are prepared to vote for a Gramm-Rudman-Hollings sequester, Johnston-style? Because that is what they are going to have to do.

If they vote in the first round for that, they better be prepared to stand up and vote yea for a mandatory $36 billion sequester this coming year, 6 weeks from now, mandatory and unequivocal, or $140 billion with a $5 billion window.

Let me tell the Senate, my good friend from Louisiana and a few others have told the Senate that there will not be any major sequester, that they have this all figured out, that we have somehow got some gimmicks here trying to bail out Ronald Reagan and avoid a sequester.

There has even been some contention that it can be pushed off into 2 years from now when the other side of the aisle says it is being pushed off to

a President who will be a Democrat President.

Well, let me tell the Chair and the Members of the Senate, I really think that is going pretty far. First of all, the November election a year from now has not already occurred.

Frankly, from this Senator's standpoint, if the Senate wants to know the truth, the difficult part of a U.S. budget from the standpoint of fixed targets just happens, Mr. President, to be 1988 and 1989. If you are talking about the years following when the other side of the aisle assumes there is going to be a President of their party, it just happens, because of the tax bill, that the deficit starts coming down then even if we do not do anything.

The current policy deficit—that is with no deficit reduction at all—goes down starting in 1990 and 1991 this is the case even under the new CBO preliminary numbers. That is why the distinguished chairman, Senator CHILES, myself and Senator GRAMM concentrated so heavily on this year for 1988 and 1989.

I am not going to go into baselines and all kinds of details. Let me just suggest if the distinguished Senator from Louisiana and his cosponsors think we are so far off the mark, just listen to this simple explanation of why $150 billion plus $10 billion and $130 billion plus $10 billion as the fixed targets, with all the vagaries of change, cannot be far off the mark.

Mr. President, if we were to just go back to the original Gramm-Rudman-Hollings days and remember that the first deficit, the $220 billion one that we were unaware of was $50 billion higher than we thought. I think everybody would say, "Well, at least, we ought to slip the targets a year."

And if there were no other changes, if we had not found out anything new, do you know where the targets would be this year? $144 billion plus 10. That would be the effect of simply slipping the targets one a year, without any recognition that interest rates have gone up and we lost $11 billion in additional interest costs, or to include the effects of lower revenues or any of the other changes that have made the dificits we project $17 billion higher in fiscal year 1988 and $34 billion higher in fiscal year 1989 than we thought just 4 or 5 months ago.

So I just want to open this discussion by dispelling any notion that we have done something radical in order to avoid sequester, in order to help anyone. What we have really done is face reality.

I make no bones about it. That is the first point.

The second point: the majority of support for the Gramm-Rudman-Hollings sequester happens by coincidence to be on this side of the aisle. I am sure my good friend, the chairman, went to his caucus and got a lot of advice from marvelous Senators. I regret to say that he probably got some great advice from a lot of Senators who are not for the Gramm-Rudman-Hollings fix.

I hate to be in his position, going to a caucus where everybody is picking on his compromise and, in particular, those who do not want it at all. They are most astute about its impact and they have the most penetrating questions. They do not have any answers because they are not going to vote for it anyway.

So, by a strange coincidence, even though we are in a minority, it is recognized that a majority of the votes for this proposition are going to come from this side of the aisle, not that side of the aisle. We hope a lot of them support it.

Now, Mr. President, if I got a blackboard up here I could show you why $150 billion plus $10 billion is a very logical follow-on to the original Gramm-Rudman-Hollings. I want everyone to know that the $150 billion first year target was arrived at because the Congressional Budget Office is telling us that the deficit is much higher than we had contemplated when we had the budget resolution here on the floor. Indeed, they are telling us that a full implementation of a Democratic-passed budget would not even hit the targets. That is an interesting observation. The Democrat budget would be substantially off.

Mr. JOHNSTON. Will the Senator yield?

Mr. DOMENICI. My third point is, and I want to make it clear. We on this side of the aisle did not enter the negotiations on the automatic sequester because we support the budget plan as the Senate passed it or Congress adopted it. I know my good friend Senator JOHNSTON is looking at this debate on the automatic sequester from the point of view of the budget that passed the Senate and then was conferenced and adopted. Recall, Mr. President, we did not vote for that budget. I do not want to bring up old tales, but we did not sit down in a conference with the House on the budget. Senator GRAMM and Senator DOMENICI, with their side of the aisle in the minority, are going to provide most of the votes for sequester, not—I emphasize not—because we are saying "How in the world can we draw a sequester that will absolutely, unequivocally mandate that the budget adopted will be enforced in its totality?" We do not come to this issue from this perspective, I assure you. So, I assume anyone who has any sense would say, "Why did you do it?"

We have worked to provide mandatory targets that are reasonable, practical, achievable, and probably will require a significant sequester in order to assure that something in the way of realistic deficit reduction gets done this year.

Mr. JOHNSTON. Will the Senator yield?

Mr. DOMENICI. Let me finish, please.

This Senator, if this amendment is passed as is and goes to the President's desk, I will urge that he sign it. I will also tell him that in 1988 we have to maximize our efforts to deficit reduction because the next year will be plenty tough. To get to $130 billion plus $10 billion will be almost impossible unless we make some real efforts this year. As a matter of fact, the $36 billion maximum in the second year was put in there at the suggestion of the distinguished chairman because he knew how difficult that one would be to achieve.

Now, Mr. President, let me conclude. If there are those on the other side of the aisle who want to do substantially more than the compromise, and if they really think we can get it done, then they should vote for this. They better be prepared to vote for its final passage because there will be plenty on this side who will not, and you can unequivocally count this Senator among them.

I am interested in getting something done that can pass both Houses and get signed by the President of the United States, that is constitutional, that will do the job. I repeat, this may be some issue from the standpoint of the distinguished Senator from Louisiana as to just how big the sequester will be. I do not know how big it will be. But I do know this: It is not calculated to throw any extraordinary burden on a Democrat or Republican President 2 years hence. I can tell you that unequivocally. Second, from the standpoint of the marketplace of the United States—and I think I have as good a communication with them as anyone around—they do not have any argument about $5 or $10 billion more or less. They are saying, "Get the automatic trigger in. And if it is $150 billion plus $10 billion and then $130 billion plus $10 billion, hallelujah. Just do it."

I am suggesting that with the amendment in its current form we have the votes to do it. We have bipartisan support to do it. We have a chairman of a Budget Committee from the other side of the aisle willing to do it. We have broad support on this side of the aisle ready to do it. It is just as simple as that. Are we going to quibble about $10 billion when the sequester itself is at stake? Or do we get it done or not?

I will be pleased not only to yield for questions but I am pleased to yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico will yield to the Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator for yielding and I would like to ask him a question. That is, Does he agree with me that under the pending Gramm amendment, as I recall it, the maximum deficit reduction this year that could be contemplated would be in the neighborhood of $26 billion, perhaps less? And if that is not correct, I wish he would explain how it could be more.

Mr. DOMENICI. If the deficit, when we finally arrive at it, is $186 billion and if you ultimately seek $160 billion, which is the $150 billion plus the margin of error, arithmetic yields $26 billion and that is the answer.

Mr. JOHNSTON. Mr. President, I thank the Senator for that answer. It is very plain and it is what I have been trying to establish all morning, that the outside limit of this amendment is $26 billion. And the Senate is stepping back from its own passed budget resolution, passed in this Congress, which calls for reconciliation of $38 billion.

Now, Mr. President, I have distilled the argument of the distinguished Senator from New Mexico, and the argument against this amendment is as follows: The senior Sentor from Louisiana has not been for Gramm-Rudman, and that is an argument repeated fives times. Now, I wonder what relevance it is to this amendment as to whether I did vote for, whether I approve of the present process, or whether I think it is likely to work in the future. It is totally irrelevant. I would be glad to debate that subject. In fact, I have, some would say, ad nauseam. But if we are going to have a process—and I think we have one and are going to have one. I recognize that. The other day I did not even ask for a record vote. I wanted my views to be known. I did not even ask for a record vote. But to repeat five times that JOHNSTON was not for Gramm-Rudman-Hollings is no argument against this amendment. I would say that my friend from Colorado, a coauthor, is and has been for Gramm-Rudman, so let us dismiss that argument.

Argument No. 2. This is a sacred agreement between the negotiators and therefore any amendments to it cannot be tolerated. The negotiators are Senator GRAMM, Senator DOMENICI, and Senator CHILES. Well, that is very nice—three Senators meet in private. I do not mean to say that they met in secret, but they met privately. I do not think the press was there. I do not think the interest groups were there. They did not call on people to testify. They did not seek public comment. They just worked together as three well-meaning, hard-working, bright Senators and fashioned a compromise. And full blown, it appears on the Senate floor last night at 6 o'clock and we are not supposed to change a jot or a tittle of that amendment.

Now, Mr. President, that is absurd written large across the Halls of this Congress. I think the whole process is bad—to present something this far-reaching without going to committee. This is not a new issue, Mr. President. The issue has been hanging around all year long. This same negotiation which took place in secret, or privately is a better word, between three Senators and their staffs could have been out there in the full light of day where people could have debated it back and forth and where people could fully have known. But the fact that it was not and the fact that they have made their agreement is no reason to say it cannot be changed one bit.

Now, when we get to the question of the substance of the numbers, we are told—and I think this is a direct quote—"I'm not going into baselines. If we slipped it for 1 year, we would be about here, or a 1-year slip would be about 144 and this is 140, so it must be right."

What relevance is it that somebody says what we should have done is slip it a year and we would be about here?

That is irrelevant, Mr. President. And we are also told, "If I had a blackboard, I could show you why 150 plus 10 is a logical followon to the present amendment."

Well, Mr. President, I can tell you we have waited in vain as to where the logic is in retreating from a $38 billion cut in the deficit already approved by this Congress. Where is the logic of saying reduce that $38 billion to $26 billion other than the fact that, "Well, I would vote against your amendment because I guess it saves more money and Republicans would vote against your amendment and therefore you better be ready to produce the votes."

Well, just where is the logic? There is no logic, Mr. President. If there is some logic, if the Senator would deal with the question at issue—the question at issue is very precise and very narrow: should we cut this deficit by $38 billion as called for in our amendment and as already passed by the Congress at least in the budget resolution, or should we reduce that to $26 billion or less. Now, that is the question and I wait, I wait, I wait like Evangeline under the oak for the logic that says we should retreat on the size of the deficit.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I am sure others want to discuss this issue. I just want to also remind the Senate that the amendment of the distinguished Senator from Louisiana with reference to the $36 billion—and he is fully aware of how difficult that concept is—says that we do not even decide that here. The manner to determine that will be decided, if I read the amendment right, by the conferees. That is what I read here.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point.

Mr. DOMENICI. Is that what I read or did I read it incorrectly?

Mr. JOHNSTON. The Senator read that exactly right, which is precisely the concept as contained in his amendment, that the 14 economic indicators are to be determined by the conferees. But the important point is that you must have $36 billion less than the baseline estimate of the deficit. So there has to be $36 billion less than that, whatever it is.

Mr. DOMENICI. In a manner to be determined in the conference.

Mr. JOHNSTON. Just as your amendment does. Precisely as your amendment does.

Mr. DOMENICI. Our amendment provides that for the averaging of the two sets of economics that are given and known, and that is why we have agreed to it. Then we will have an objective determination of what that averaging will be.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. DOMENICI. I regret that, when I made my explanation of why 150 is a reasonable number, and I talked about slipping Gramm-Rudman-Hollings a year, my friend from Louisiana assumes I am talking there about something that is rather insignificant or trivial.

Mr. President, the point I was making was that things have changed over the 2 years since the original Gramm-Rudman-Hollings bill was enacted. Interest rates went up. We know the consequences of the tax bill. My point was that the deficit when we started justified our slipping the targets a year. That has been commonly understood.

So I am saying that that is $150 billion plus $10 billion is pretty close to the $144 billion plus $10 billion that we had figured on 2½ years ago, before we knew the new economics that would raise the deficit. That is why I gave that particular discussion to the U.S. Senate.

Mr. CONRAD. Mr. President, I rise in support of this amendment, which I coauthored with the distinguished Senator from Louisiana and the distinguished Senator from Colorado.

I am someone who is clearly on record as favoring a fix for the Gramm-Rudman-Hollings mechanism; because I am convinced that unless we have the pressure at the head of the President, the pressure of a gun cocked at the head of Congress, we will not make a significant deficit reduction, which is precisely what this country needs.

The reason we need it—and sometimes I think we need to remind ourselves why we need it—is that this def-

icit has led to higher real interest rates than we would otherwise have, which has driven up the dollar, driven us out of export markets.

The other day, Senator MOYNIHAN, in discussions of the trade deficit, indicated that our real problem is a mistake that has been made in economic policy in Washington—a staggering mistake of thinking that we could cut revenue, increase spending, and somehow it will add up. It has not added up. As a result, the deficit in this country has doubled in the last 6 years, and as a result, we have a trade deficit out of control. As a result of a trade deficit out of control, we have a burgeoning international debt. We have become the biggest debtor nation on the face of the globe, in a matter of months.

So it becomes incumbent upon us to engage in serious deficit reduction. That is the bottom line.

Now let us look at what the amendment before us does. I am not talking about the Johnston amendment, which I coauthored. I am talking about the Gramm-Domenici-Chiles amendment. That amendment would provide a target of $150 billion in fiscal 1988, with a fudge factor of $10 billion. In other words, if we were to reach a deficit of $160 billion in fiscal 1988, there would be no sequester.

Well, what was the deficit like in fiscal 1987? We are to see if we are making progress at reducing this deficit. The answer is that in the amendment of Senators GRAMM, DOMENICI, and CHILES, we make no progress on the deficit.

The fiscal 1987 deficit is $161 billion. Now we are given a target of $150 billion plus $10 billion of fudge factor—$160 billion. Absolutely no progress on the deficit from fiscal 1987 to fiscal 1988.

There are those of us who believe—just as sincerely as those on the other side might believe—that we cannot tamper with this amendment, that we ought to lower the target, that we should assure ourselves and the American people that there will be deficit reduction from fiscal 1987 to fiscal 1988, and that is what the amendment offered by Mr. JOHNSTON does. It does promise the American people that we are going to have deficit reduction from fiscal 1987 to 1988; that we are going to have a $140 billion target, plus $5 billion of fudge factor, or $36 billion of program reductions, whichever is lower.

I think that is the sum and substance of the amendment before us. It pledges what the old Gramm-Rudman-Hollings construct promised—that is, year-to-year deficit reduction. We are going to make progress on this deficit. That is precisely what the American people expect us to do. It is what we ought to do. I hope we will adopt this amendment.

Mr. GRAMM. Mr. President, I want to address issue of progress on the deficit.

Under the original Gramm-Rudman-Hollings law, with all of its flaws, including the Supreme Court decision that the GAO role was unconstitutional, we reduced the deficit from $233 billion to $161 billion. But we have had some dramatic changes since then. These dramatic changes have occured because during the last 8 months, it has become obvious to the financial markets that Gramm-Rudman-Hollings is no longer binding on this Congress.

All that produced, in large part, that dramatic improvement in the deficit—both long- and short-term interest rates going down, stimulating the economy—has been reversed. It has been reversed because the people who had rejoiced in December 19 months ago that we had really done something about reducing the deficit have discovered that the progress that was made during the 99th Congress was not continuing.

I know that everybody wants to use statistics to support their argument, but you reach the point of being a little disingenuous when the same arguments are made over and over again. We have explained that the tax reform bill produced a one-time $20 billion increase in revenues in fiscal year 1987. This is one of the reasons why the fiscal year 1987 deficit is down and why we are estimating a revenue loss next year.

Mr. CONRAD. Mr. President, will the Senator yield?

Mr. GRAMM. I will yield in a moment. I want to finish my point.

By setting a target of $150 billion for fiscal year 1988, we are committing ourselves to $36 billion of deficit reduction from the CBO baseline estimate of the deficit.

We hear this talk about only $26 billion of deficit reduction. I remind my colleagues that the $10 billion built into Gramm-Rudman-Hollings is not a fudge factor. It is simply a margin of error. If you get that close to the deficit target, it is not worth putting the economy and the people who depend on the Federal Government through the wringer of experiencing a sequester order. But if you do not get within $10 billion of the target, you do not sequester back to $150 billion plus $10. You sequester all the way back to $150 billion.

What we have before us is an amendment that says we are going to decide later between two options to avoid a sequester in fiscal year 1988. In one of the options we must meet a $140 billion deficit target, with a $5 billion margin of error.

Do you realize that if the President were willing to sign your reconciliation bill, put your budget into place, you would still have a sequester order under this target, that we would still have an across-the-board cut, and this sequester would cut spending all the way to $140?

I go back and make the point that was made by the distinguished Senator from New Mexico earlier: By setting targets that we know we cannot meet, we are engaging in the political game of assuring that there is not going to be any permanent workable system in place.

Quite frankly, since January this Congress has constantly voted to spend money, we have seen our own pay increase, we have passed a deficit-increasing supplemental appropriation bill, and we have passed a budget that raises domestic spending by almost $45 billion while proposing a tax increase of $21 billion. We have only 3 weeks in session before there would be an across-the-board cut in spending, only 3 weeks to do something about this large deficit, and yet we have people stand up and say that $36 billion in deficit reduction is not enough.

I find it completely unacceptable that after spending money like it was going out of style, following one of the greatest displays of fiscal responsibility in American history, Members are on this floor saying that cutting $36 billion from the deficit in 3 weeks is not enough progress on the deficit.

Mr. CONRAD. Mr. President, will the Senator yield?

Mr. GRAMM. I want to make one other point and then I will yield the floor.

I want to return to the issue that OMB is a constant engine of deceit. We keep hearing people complain that OMB is going to be involved in the Gramm-Rudman-Hollings process and they can tilt the numbers.

I wish my colleagues would go back and review the facts. I have the data from the sequester report for fiscal year 1987, reprinted in the Federal Register, of the OMB and CBO projected deficits for last year.

How well did CBO and OMB forecast last year under the old process? OMB said the deficit was going to be $156.2 billion. CBO said it was going to be $170.6 billion. Their average was $163.8 billion. Guess what? The deficit is currently estimated by CBO to be $161 billion, a $2.8 billion difference from the average of the projections. That is not bad for Government work.

Some may note that OMB said the deficit was $14 billion less than CBO said. That is true. But do you know that OMB was closer to the current estimate than CBO was? Furthermore, under the compromise that we have offered, we have eliminated the differences regarding the treatment of appropriated entitlements. We have required that farm deficiency payments be scored as being advanced because we know we are going to advance the

payments just as we have in the past. We have written in assumptions about pay rate absorption, and we have written into law how to calculate BA-to-outlay ratios. Had the amendment pending before us today, the amendment that I have offered with Senator CHILES and Senator DOMINICI, been in place, the difference between OMB and CBO's estimate last year, constrained by the amendment that we have before us, would have been lowered to about $2 billion.

Interestingly enough, under our new constraints, the estimate would have been more inaccurate. In other words, as it is turning out, we would have forced the deficit to be overestimated.

I am not raising that as any big problem, but I want our colleagues to understand that we have imposed very severe restrictions on OMB. We have eliminated the areas where there are real discretion in estimating the deficit. We have eliminated the ability to decide how you are going to deal with appropriated entitlements, an item that accounted for $1.7 billion of the difference last year. We have eliminated discretion about deficiency payments. That was responsible for $5.1 billion of the difference last year. We have eliminated discretion regarding Federal pay absorption. That was $2.8 billion of the difference last year. We have set constraints on BA-to-outlay ratios.

Reiterating, had the constraints in our current amendment been in law last year, the deficit estimate by CBO and OMB would have been within about $2.5 billion of each other.

So please remember when everybody is saying that we have given OMB a free hand, the reality is that we have imposed very strict constraints on OMB. Their discretion really boils down to estimates about what is going to happen in the economy, and we have included in this amendment the opportunity for us to come back and rewrite those assumptions if we choose. We have converted the OMB role into a green eyeshade function.

And as a final point, and then I will yield the floor, I ask you to remember that last year with no constraints whatsover, the average of CBO and OMB deficit projections came within $2.8 billion of what we today think is the fiscal year 1987 deficit. That is pretty good work.

The PRESIDING OFFICER. The Senator from Texas yields to the Senator from North Dakota for a question.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. GRAMM. I am happy to yield. Let me yield first to the Senator from North Dakota and then come back.

Mr. CONRAD. Let me first say that I am surprised to hear the Senator from Texas on the other side of this question because now we have the Senator from Texas arguing against a lowering deficit which surprises me and disappoints me.

We are seeking to have a lower target for 1988. The Senator makes the point that we have had a lot of deficit reduction under Gramm-Rudman. We have gone from $221 billion to $161 billion. The fact is we have had very little reduction in the structural deficit. That reduction from $221 billion to $161 billion is largely illusory and the Senator when he cites the one-time revenue bump as a result of the Tax Reform Act points out the fact that we have had a one-time revenue bump of $20 billion which reduced that deficit was part of the reduction that we get. Another $18 billion of the reduction comes from one-shot spending savings.

But the numbers that we just got from CBO tell the story. There has been very little reduction in the structural deficit. There has been a big reduction because of one-time revenue, one-time spending savings, but if we are going to get serious about this deficit, we should be true to the commitment that was in the original Gramm-Rudman-Hollings Act that called for year-to-year deficit reduction.

I, for the life of me, do not understand why, when we still have a recovery going that there are those supporting continuation of the deficit level from 1987 into 1988 going back on the commitment to year-to-year deficit reduction. That is my question. Why are we going back on that commitment?

Mr. GRAMM. If I may respond, and then I will yield the floor, it depends on whether you want to fight deficits with words or actions.

If I wanted to send a letter to my momma this afternoon telling her how I was for balancing the budget this year, I could sit down and write it and it would be pretty easy. But the problem is that my momma is going to read in the newspaper what the deficit actually turns out to be. The question here is are we trying to make law, are we trying to set policy, or are trying to let the world know where we stand individually?

Now I happen to believe that I have a very responsible record on trying to do something about reducing the deficit. But I think that it is not for that record, that the people of Texas elected me or that the people of the United States elected us. They elected us to make things happen, and to compromise, if necessary, to move things in the direction that they believe they should go. Ultimately they judge us not on the basis of what we say we want to happen but on the basis of what actually does happen.

My point here is simply this: we have bitten off about all we can chew given that we must go to conference with the House and given that we must pass something that the President will sign into law.

Now, we can spit this compromise out, take a bigger bite, and choke on it if our objective is not to swallow it. My objective is to swallow. I want to have a system which will force us to balance the budget over a 5-year period. Killing it off before we ever get started is not the way to make that happen.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. DOMENICI. Mr. President, I wonder if the Senator will yield for 1 minute for an explanation.

Mr. WIRTH. I am happy to yield.

Mr. DOMENICI. I want to explain to my friend from Louisiana. He asked me a hypothetical question.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. He said maximum sequester using $186 billion which was the CBO deficit.

Mr. JOHNSTON. Not maximum sequester. The maximum requirement for deficit reduction to avoid the sequester.

Mr. DOMENICI. But I think the question that I answered, I answered improperly. I said the maximum sequester is 26. That is not so. The maximum sequester is 36. In order to meet the target you can get by with 26. And I would just add to the Senators who are wondering about that, that is exactly the same situation that existed heretofore when you had fixed $36 billion reductions under Gramm-Rudman-Hollings. If you got, by action, 26 of it so that you used up that $10 billion window, you were OK. It is the same here under the hypothetical asked by the Senator from Louisiana of the Senator from New Mexico. The sequester goes all the way down to the target, but to fix it you have got a grace window of $10 billion.

The PRESIDING OFFICER. The Senator from Colorado was recognized.

Mr. WIRTH. Thank you, Mr. President.

I am happy to be joining with the distinguished Senator from Louisiana and our new colleague from North Dakota in supporting this very important amendment.

I served for many years on the House Budget Committee and was in a lot of battles with the now Senator from Texas [Senator GRAMM] and with the distinguished Senator from New Mexico [Senator DOMENICI] and find myself truly very surprised that those people that I had worked with—and we fought and argued and so on, but they were and have been so deeply committed to deficit reduction—that they are not supporting what is on its face such a simple proposition in

terms of helping us to reduce the deficit.

It seems to me that the debate that we have here, Mr. President, is only a debate between two approaches. The one that has been agreed to, which is an approach for budget procrastination, and the one which we are offering, which is a budget for real budget deficit reduction. We can procrastinate some more and vote down this amendment or we can vote for this amendment and commit ourselves to some very significant deficit reduction.

Now the argument has been made by the opponents of this that a deal was cut, that a deal has been agreed to, and that they are "ready to do it," ready to go in there and sit down with the House conferees. It seems to me all they are ready to do is to procrastinate some more on the deficit. I do not think we have to do that. We do not have to do that. We have a wonderful opportunity available right here. The Senator from Texas said it is time for us to make things happen. Now I think we can make things happen by voting yes on this amendment.

We all know that everybody in this Chamber, every single Member of this body—and I will bet you every Member of the House, as well—has talked about the evils of deficit. They have gone up and down their States and districts and said how bad the deficit is; and send them back here and they will do the job; they will commit themselves to really moving on the deficit. They have talked about the evils of the deficit, talked about the problems that it causes for trade, talked about the pressure that it puts on interest rates, talked about how it is eroding the very fabric of the economy. We have all heard the rhetoric.

But, from time to time, it is time to set aside that rhetoric, Mr. President. It is time to set that rhetoric aside. We have all done it. The time comes when you have a unique opportunity to really make a difference with one vote. And I think right now we can make a difference with one vote. And what is that difference?

Let me get into the numbers a little bit and see if I can help to explain to my colleagues what those numbers are. In summary, you are going to get at least $36 billion by voting for the Johnston-Wirth-Conrad amendment, or you can vote no and probably end up getting much closer to zero.

I want to come back and explain that, but first of all just to put another matter to rest, if I can.

The argument was made a little earlier, when the Senator from Louisiana was explaining the amendment, the argument was made that all he was trying to do, as I remember, was to really destroy Gramm-Rudman-Hollings; that the Senator from Louisiana had always been an opponent of Gramm-Rudman-Hollings and this was just another chapter in opposition to Gramm-Rudman-Hollings.

Well, let me fill that out a little bit by explaining that this Senator, cosponsoring the amendment with the Senator from Louisiana, has been a long-time supporter of Gramm-Rudman. This is not an effort to destroy Gramm-Rudman. I have been a supporter of Gramm-Rudman not because I think it is a perfect mechanism, not because I think we ought to have automatic formulas around here, but because I believed when this first came up and in every vote since, I believed that this was a mechanism that we had to get behind and make work. So I think to suggest that this is destroying Gramm-Rudman-Hollings is really not a worthy argument and it certainly is untrue.

I would also remind the opponents of this amendment that I was not only supporting it but was one of only 14 Members of the House when I was there, Mr. President, 1 of only 14 Members who voted to put teeth back in Gramm-Rudman, only 1 of 14 Democrats to do so. Not a very large number. But I only cite that to support that one of the authors of the amendment has been a consistent supporter of Gramm-Rudman and to argue that this is an effort to gut Gramm-Rudman is simply not the case.

The opponents, as I remember a little bit earlier, also suggested that what was in this was it unfortunately only allowed the conferees to go in there and to negotiate. That is what we would do, is just negotiate and leave it to them—you cannot trust them—while under the current legislation in front of us they would go into the conference with "two sets of economics that are given and known."

The opponents are telling us that they would go into this with two sets of economics that are given and known. Well, that is hardly the case. And understanding that they are not given and known is essential to understand another piece of our amendment and why you have to vote for the Johnston-Wirth-Conrad amendment. And let me explain that.

The assumption that our opponents are making is that somehow CBO and OMB have specific sets of numbers. You submit the difference between the two and you go into conference with that as the agreed-upon baseline. That assumes that the given and known are the OMB numbers. OMB numbers, however, are not given and known. They are not given and known. This is not to suggest that OMB is trying to do something sleight of hand or cut a corner. They just have not made any decisions since their initial figures were out in January.

In January, Mr. President, their initial figures were $150 billion. That is OMB's number. Their initial number was $150 billion. That assumed a 3-percent defense increase, which is defense growth of about $8 billion. And we know that is not going to happen. So let us factor that into OMB's number just to get a sense, the best we can, of what OMB's numbers are. Factor the 3-percent defense back in there and the deficit comes down to $142 billion because we are not going to spend that number.

They also do not factor in the REA financing. That is another $7 billion. So if you just take defense and REA financing, the OMB number would go down to 135. That is their baseline. If you average that with the baseline of 180 coming out of CBO, you end up with the difference—with the average of 135 and 180—of 150-plus. Now, what they are suggesting against that 150 is that we have a deficit of 150. We are going to set the budget at 150. In order words, you take this average and you take their deficit, plus the $10 billion fudge factor.

And what do you end up with in terms of deficit reduction under the plan presented to us? Zero. There is no deficit reduction. There is not any deficit reduction. I would just urge my colleagues to do the simple mathematics. Average where OMB is today, which is approximately 135, along with what CBO has, about 160, and you end up with 156, 157, something in that neighborhood. Take away from that the fudge factor of 10 and what have we got? Almost no reductions whatsoever.

That is what this debate is all about. That is what this debate is all about. Just do the arithmetic.

Now, even if we do not do the arithmetic, we should not fool ourselves by pursuing and listening to the arguments that if we support this amendment, we are going to be "engaging in targets we cannot meet." We could meet a target of zero. We could meet a target of 10. In fact, I think we could meet, and we agreed in the budget resolution to meet, a target of at least 38. We agreed to do that. A majority of this body agreed to do that.

Now, when we agreed to do that, did we say that we were going to try to meet a target that was not unmeetable? Of course not. We said we are going to go ahead and do that; we are going to get into the high 30's. That is what we agreed we were going to do.

The argument against this amendment made on the other side says, "Well, you all have bitten off more than you can chew." Well, what I would like to do is to chew on this deficit and chew on it hard. We are biting off in this amendment essentially what we have agreed to in the budget resolution. We have not bitten off more than we can chew.

Now, Mr. President, on the front page of the newspaper the other day

was a picture of a vast credit card. And there was our leader with a big pair of shears cutting the congressional credit card. Well, I want to tell you, if you do not support the Johnston-Wirth-Conrad amendment this afternoon, you are going to be going home in this August recess and giving the taxpayers another $40 billion, a little less than $40 billion of deficit. That congressional credit card is going to be cranking up $40 billion more. You have an opportunity by voting for this amendment to cut, finally to cut, that congressional credit card in half.

Now, would it not be nice to stop talking about it, stop putting it on the front pages of the newspapers, but, in fact, to do something about it?

In summary, where we are, Mr. President, is with a very, very simple choice: Members going back and looking at the numbers and looking at doing the averaging, doing the arithmetic, it is not complicated, it is not difficult, it is basic arithmetic: averaging and subtracting. That is all you have to do to understand this amendment and to understand why this gets us away from the disease of budget procrastination, which we have had for so long, Mr. President, and right into some very, very real deficit reduction.

So I would urge my colleagues to support this amendment. This offer does not come very often. We do not have a chance very often where we can sit down, understand a simple amendment, not a lot of gobblydegook, not a whole lot of rules, just some simple arithmetic. That same arithmetic will show how you can make some very significant differences in that budget and cut up that congressional credit card by voting for this amendment. I hope we will support this amendment. I want to thank the distinguished Senator from Louisiana for offering it. He has done a very, very good job, good service, and I am pleased to be able to join with you in cosponsoring this and supporting it in every way I can. I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor, the Chair recognizes the Senator from Washington, Senator EVANS.

Mr. EVANS. Thank you, Mr. President. Some of the debate this afternoon sounded a little like the Mad Hatter tea party.

Those who on many occasions advocated more spending and higher taxes are now advocating a lower deficit target and those who have advocated no new taxes and cutting the budget are advocating a smaller target to shoot at.

I hope we can bring just a touch of reality back to the debate. I am not going to speak now directly for or against this amendment, but, rather, to what we are really talking about.

I think we are captured far too often by the numbers. Whether they come from OMB or whether they come from CBO, they are looked at as sacrosanct, accurate. They will be what happens.

In fact, I can look ahead with numbers that have just come out this month, the July numbers from CBO. They very carefully calculate that based on current baselines, clear into fiscal year 1992, the deficit will be precisely $160 billion.

I do not know what they know but I do know they are guessing. They may be guessing with all of the wisdom and the accuracy that they can, but they are guessing.

When you are looking 6 years ahead, that is not even estimating. That is guessing what the economy will do.

In order to guess that, they are suggesting that the growth in the gross national product each year for the next 6 years will be, and listen to this, precisely 2.5; 2.5; 2.5; 2.6; 2.6; and 2.6.

That sounds more like the scores that are put up after a diving tournament than it does the absolute and extraordinary and steady 2.5 or 0.6 percent growth that occurs for the next 6 years.

We all know that there has been no time in our history when any such thing has occurred.

Mr. President, these just give us some targets to shoot at. I prefer not to even look with very much care at anything more than a year out. After all, even for fiscal year 1988 we are talking about a long time from now to predict an economy.

So, Mr. President, I do not believe that necessarily by the end of fiscal year 1988, which is more than a year away, the deficit would necessarily be $181 billion, $151 billion, $171 billion, or any other figure except somewhere in that general neighborhood.

But, as long as we have the Gramm-Rudman Act, and as long as we are working in the way we are, we need something to shoot at. That is true.

Let us not kid ourselves. In real terms, we will be measured by what we do in our appropriations acts, and whatever tax or revenue acts we may choose to pass.

We will not be measured by this artificial target which sits out there. We will be measured by what we actually do. I suggest, Mr. President, that we are wide open for every Member of this Senate or at least a majority to join together to bring the deficit down. The way to bring it down is to vote, when each appropriation act comes in front of us, for appropriations that will help bring it down.

If necessary, and if we believe after going through the spending patterns, that tax increases are required in order to bring that deficit down, we can vote for those tax increases. It does not really make any difference whether this budget target is set at $150 or $140 billion.

If this amendment fails and the deficit target stays at $150 billion, it does not prevent us from still shooting at $140 or $130 or $120 billion or any other figure below that target.

Admittedly, the temptation, the extraordinary temptation, is to spend right up to the limits. I have not decided at this moment whether I will vote for this amendment or not. It has some great potential merit, I think, because I have always believed that we must move more strongly than we have been willing to move in terms of bringing a deficit down. But I would suggest that if this amendment fails, I hope those who do support it will vote for the necessary reductions to get to the $140 billion anyhow.

I hope that they will be willing to vote for the necessary tax increases, to get us to $140 billion anyhow. For even if this amendment failed, it does not prevent us from doing the job we would like to do.

So, I will be delighted to see what happens to this amendment. If it has strong support, then I presume there will also be strong support at the time of appropriation bills and at the time of revenue bills, to hit that target of $140 billion, even if we have not ensconced it into law.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Washington yields. The Senator from Louisiana is recognized.

Mr. JOHNSTON. I ask unanimous consent that the Senator from Nebraska [Mr. EXON], be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, it is getting late on Friday afternoon. Our colleagues are anxious to get out of town.

I think we have had an excellent debate and I am ready to sum up and bring it to a vote.

Mr. CHILES. I wonder if the Senator would yield? I want to make a few remarks on the Senator's amendment, but do not want to deprive him of the chance to make the final statement.

Mr. JOHNSTON. I appreciate that courtesy, Mr. President, and I will yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I find myself in somewhat of a dilemma on this amendment. It has a flavor of an amendment I presented to the Senate. In fact, it does not go quite as far as the amendment I presented to the Senate, but it has a familiar flavor.

It happens, therefore, to be something that I believed in, trying to get $36 billion in deficit reduction.

I also believe in trying to get everything that we can in the first year.

Therefore, it would seem, that I would be for this. There is only one reason that restrains me.

The Senator from Florida got 25 votes for his amendment. The Senator from Colorado, who was a cosponsor of this amendment and spoke eloquently on it, was 1 of the 25 votes my amendment received.

He has been persistent in that. There are a few other converts to this amendment that were not among the 25 who did not vote for the amendment I offered last week. I do not think the Senator from North Dakota did. I do not think the Senator from Louisiana did. I do not think the Senator from Nebraska did.

I am not sure about the Senator from Nebraska. I do not think he did, either.

I hope there is nothing personal against me, but when the poor Senator from Florida tried to break something like that out they did not support it.

The point, Mr. President, is I would like to have this, and I also want to see us have a fix on Gramm-Rudman-Hollings. Realizing that the amendment of the Senator from Florida, when proposed, got 25 votes, persuades me that if this amendment were adopted today, I am not sure how many more than 25 votes we would get on final passage. We may get some more.

It may be that these new converts would see things differently. The Senator from North Dakota has changed and now thinks that while this bill is not quite as thorough as the Chiles amendment with $36 billion, it suddenly has a new flavor. Maybe the Senator from Louisiana, the Senator from Nebraska, and some of these other people will now take a different look.

I offered the amendment, worked for a number of days before that trying to persuade the other side on it, went to a vote and got only 25 votes. I have to conclude that although this is something I like and I want and I wish was in there, I think it would not allow us to be successful.

The Senator from Louisiana has been the first to say he does not favor Gramm-Rudman-Hollings. He has been very consistent and very forthright in his opposition to it. I understand that. I think he is also sincere in feeling that perhaps we need more savings in the first year.

It is interesting, if we did not have this discussion, that this provides we arrive at some of these figures in a manner to be determined by the conferees.

That shows me that the Senator from Louisiana and his supporters believe that we need to leave something up to the conferees.

I would say that the fix we have before us also provides that the conferees will ultimately decide what the baseline number is going to be, after they hear from OMB, after they hear from CBO, as to what their latest projections are. It is going to be up to the conferees to decide that. That is why I feel we do not have to worry about whether there is going to be a small number or not. I think they define the target. They have the authority to define the target.

I am persuaded we have a much better chance to strengthen this by the conferees than we do by an amendment that, if passed, might keep us from getting any automatic sequester at all.

Mr. President, much as I would like to vote for this amendment, I will not be able to. As I say, I have tried that and I wish when the Chiles amendment was up I had had the support of the Senator from Louisiana, the Senator from North Dakota, and the Senator from Nebraska.

Mr. JOHNSTON. Will the Senator yield?

Mr. CHILES. Yes.

Mr. JOHNSTON. I would suggest the Senator's amendment has never been up. There was a point of order to waive the Budget Act, but his amendment has never been up and has never been voted upon. Am I not correct?

Mr. CHILES. I think the Senator is not correct. We did waive the Budget Act with the help of my friend. I think he helped me out—o-u-t. We had that and got 25 votes.

Mr. WIRTH. Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. WIRTH. I thank the Senator. I was pleased to support the Chiles amendment and I hope his amendment is adopted. On the question of giving the conferees a voice, we all have to think of what they can come up with on deficit targets. What we are talking about here is assuring that our Senate conferees going into conference with the House have the strongest possible position. That, it seems to me, is what this amendment does. It provides a much firmer base going into conference.

Mr. CHILES. I do not argue with that at all. What I am not persuaded on, I would say, is we only got 25 votes, and the Senator from Colorado joined with me on that vote. I am not persuaded that if this amendment passes, we will have the votes on our side to carry.

Mr. WIRTH. As Mark Twain said, if you always do the right thing, you will gratify some people and astonish the rest.

Mr. CHILES. I do not know if he said that, but I do know he said once burned, twice shy. I got burned.

Mr. CONRAD. If the Senator will yield, I want to say that I think there is a good chance for us to carry the day. I do not think it is the same situation we faced earlier. I am a convert not because I changed position. I have not changed position. I wanted fixed targets in there. Now we have fixed targets. I also wanted a lower target for this year, which is included in this amendment.

I am convinced that one of the reasons the Senator did not get the votes is because he did not have fixed targets. Now we have the best of all worlds, fixed targets and a lower target for this year. It would be nice to support this.

Mr. JOHNSTON. Mr. President, I shall sum up in a couple of minutes. I hope we can vote at that time.

First of all, let me say, Mr. President, that this is not the same amendment as the Senator from Florida had, but if it is, on the fact he may have been right at that time and did not get enough votes, if the amendment is right the amendment is right.

I am reminded of that story of the lawyer who argued one side of a case in the morning before a judge and he made a passionate argument. That afternoon he was representing another client and he happened to have exactly the opposite side of that same point of law, and he vociferously argued the opposite side. After the case was over, the judge said, "Counselor, how in the world could you argue so strong one way in the morning and another way in the afternoon?"

He said, "Your Honor, this morning I thought I was right and this afternoon I know I am right."

Mr. President, it boils down to this: the Senator from Florida says this is the right thing to do, but somehow it violates the agreement of the triumverate executed privately, in good faith to be sure, but executed privately. I say if it is a good thing to do, we ought to do it.

The sole, narrow question presented here is: What is the proper size of the deficit reduction to be made in the coming year?

The Senate has settled that, the Congress has settled that, in the reconciliation agreement, and in the reconciliation agreement, which provides for all the cuts, we said $38 billion.

This amendment says $36 billion, so we are right on target, with the action already taken by this body, approved by the House of Representatives, and now the budget resolution with which we operate.

Second, it is consistent with the Gramm amendment now pending. The Gramm amendment says that the appropriate reduction to be made next year is $36 billion. They say the appropriate reduction in the year after that is $40 billion and the year after that is $45 billion and the year after that is $45 billion, but not this year, he says. This year, he says, we can do a maximum of $26 billion. And when you ask the Senator from Florida why, he says, "Well, I tried that and it didn't work. I still believe it is right, but I am

not going to vote for it." You ask the Senator from New Mexico why and he says, "Well, I could give you some good logical reasons." He says, "This is about where we would be if we slipped it a year." He says, "I'm not going to go into baselines."

In effect, there is no good reason to reduce that deficit reduction target from $36 billion or $38 billion down to $26 billion or less. I believe the Senator from Colorado is right when he says it is really not $26 billion. By the time this amendment matriculates through the process, it will be closer to zero. But even if it is the maximum amount of $26 billion, that is too little. It is inconsistent with their own amendment. It is inconsistent with what the Congress has done. And I think we ought to stand up and make this cut.

One final word. Much has been said about my opposition to Gramm-Rudman. My opposition to Gramm-Rudman in the past, and which continues now, has not been because I think it cuts the budget too much. Not at all. As a member of the Budget Committee over the past 10 years, I have consistently voted for lower deficits. I have not been one of the big spenders. My opposition to Gramm-Rudman has been because simply I do not believe it has worked and I fear it will not work. But I can tell you this, Mr. President. I will try to make it work and this amendment for sure makes it work better because it gives us as big a bite as we can take. We have already taken a $38 billion bite in the budget resolution, and I say let us stick to what we have already done. I say let us make a $36 billion deficit reduction in the coming year. We can do it and that is what this amendment accomplishes.

Mr. LEVIN. Will the Senator yield for a question?

Mr. JOHNSTON. Yes, indeed.

Mr. LEVIN. As my friend from Louisiana knows, I have been a supporter of Gramm-Rudman and I very much support the Chiles amendment as being better than nothing. I also happen to like the Senator's amendment. I think it improves the Chiles amendment. My fear is that if it is adopted, however, Chiles may not then have enough votes to pass. That is a real consideration for me. I have not heard the Senator from Louisiana address that issue, including his own position if he is free to say so, on the Chiles amendment if it is amended by the Senator's amendment successfully. Is the Senator free to tell us at that time either what his own position would be on the Chiles amendment or whether or not he believes firmly that the Chiles amendment can pass if it is amended by his amendment? Because his whole claim is, rightfully so, that his amendment is greater deficit reduction than the Chiles amendment. I think that is true and that is why I like his amendment.

Mr. JOHNSTON. I think it is an appropriate question. I am prepared to answer the Senator directly. I still do not believe in Gramm-Rudman. However, given the choice of having this package passed with my amendment, if I must vote for it to pass it, as opposed to passing without my amendment, I would be prepared to vote for the Chiles package holding my nose. Though I might be for the rest of the provisions of it, I am prepared to vote for it to pass it, and I believe we can pass it.

Mr. LEVIN. One additional question, if I could. We all have talked to each other a lot about this amendment because it is critical as to where we are going as a Congress and as a nation, I think as a nation being far more important. Can the Senator predict with any confidence—and I am not going to hold him to his predictions as to how others would vote, but does the Senator have any degree of confidence, if his amendment passes, we can get 51 votes to pass the Chiles amendment as amended by Johnston? Is the Senator at all confident of that?

Mr. JOHNSTON. I believe we can. I believe we can. And I can tell the Senator that it is not a final action. In other words, if we try and fail to pass the Chiles amendment, it is further amendable. So it is not as if it is a final action. I say if you believe that $36 billion is the appropriate target as opposed to $26 billion or less, and you are worried about whether it will sink the ship, I say come with us, give us a try, and if we fail, then the debt limit is further amendable so it will not be final action. The Johnston amendment, believe me, is not going to sink this ship. In fact, it may make it sail out on a fresh new tide of budget reduction.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. Mr. President, we are ready to vote.

The PRESIDING OFFICER. If there is no further debate——

Mr. DOMENICI. We ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? Obviously there is.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] and the Senator from New Mexico [Mr. BINGAMAN] are absent because of illness in family.

I further announce that, if present and voting, the Senator from Alabama [Mr. SHELBY] would vote "nay."

Mr. DOLE. I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 52, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—41

Baucus	Ford	Mikulski
Bentsen	Fowler	Mitchell
Boren	Gore	Moynihan
Breaux	Graham	Nunn
Bumpers	Harkin	Pell
Burdick	Inouye	Proxmire
Byrd	Johnston	Pryor
Conrad	Kennedy	Reid
Cranston	Kerry	Riegle
Daschle	Lautenberg	Rockefeller
DeConcini	Levin	Sarbanes
Dixon	Matsunaga	Sasser
Dodd	Melcher	Wirth
Exon	Metzenbaum	

NAYS—52

Armstrong	Hatch	Pressler
Bond	Hatfield	Quayle
Boschwitz	Hecht	Roth
Bradley	Heflin	Rudman
Chafee	Heinz	Sanford
Chiles	Helms	Specter
Cochran	Hollings	Stafford
Cohen	Humphrey	Stennis
D'Amato	Karnes	Stevens
Danforth	Kassebaum	Symms
Dole	Kasten	Thurmond
Domenici	Lugar	Trible
Durenberger	McCain	Wallop
Evans	McClure	Warner
Garn	McConnell	Weicker
Glenn	Murkowski	Wilson
Gramm	Nickles	
Grassley	Packwood	

NOT VOTING—7

Adams	Leahy	Simpson
Biden	Shelby	
Bingaman	Simon	

So the amendment (No. 649), as modified, was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there other amendments?

Mr. BINGAMAN. Mr. President, I am opposed to the Gramm-Rudman-Hollings "fix" that is being considered today and I plan to vote against it.

The provision before us today is needed to reinstate the automatic sequester and to bring it into compliance with the recent constitutional ruling that the original provision was an unlawful delegation of legislative power to the executive branch and therefore unconstitutional. The sequester would, of course, require automatic spending cuts across the board if Congress and the White House fail to meet their deficit targets. As I understand this provision, Congress and the White

House would have to achieve a deficit of $150 billion in fiscal 1989, $90 billion in 1990, $45 billion in 1991, and zero in 1992.

I am as much in favor of reducing the budget deficit as any Senator, and if I thought the so-called Gramm-Rudman-Hollings procedure or any other procedure would balance the budget, I would vote for it and join in the chorus telling the country we have fixed the deficit problem. But I simply don't believe this procedural fix or any other one, for that matter, will seriously work. It simply will not fix the deficit problem.

This latest procedure is fraught with inequities—imposing greater hardship for some than others, and it has more loopholes than the tax codes to avoid action. The only action that will seriously reduce the deficit is real action by the Congress to bring spending and revenues into balance. Procedural fixes will not work. I ask unanimous consent that a fact sheet from the Center on Budget and Policy Priorities be inserted in the RECORD following my remarks.

In summary, I believe the Gramm-Rudman-Hollings Act represents an extremely complex procedural effort to deal with a substantive problem. As it is further modified by this amendment under consideration, I believe Gramm-Rudman- Hollings would serve real injustices on some groups while protecting others and it could actually serve to deepen and accelerate any economic downturn we might experience by attempting to tie the hands of Congress, this President and future Presidents by limiting economic options. Finally, the action is simply an effort to paper over with legislative language the deficit problem instead of taking the action which is really needed.

Mr. RIEGLE. Mr. President, I have grave reservations about the wisdom of the course we seem to be heading down. The Gramm-Rudman-Hollings approach to controlling Federal deficits is a failed policy. During the first year of this law, deficits exceeded the targets by $50 billion in fiscal year 1986. The deficit for the current fiscal year will exceed the Gramm-Rudman target by at least $20 billion, and would be substantially higher except for a unanticipated one-time capital gains tax revenue windfall—a result of last year's tax reform legislation, a matter totally unrelated to the budget procedure.

The Gramm-Rudman approach is a Rube Goldberg device that is no substitute for setting Federal priorities and making hard budget choices. As we have learned since GRH went into effect, there's always a way around elaborate decision-avoiding procedure like Gramm-Rudman. Federal deficits can only be reduced by honest budgets and painful choices, not by slashing randomly at programs regardless of their effectiveness or importance.

Contrary to the stated intent of its authors, this amendment actually reduces the incentives for the President to work with Congress to solve the deficit problem. There are not sufficient guarantees to prevent OMB from manipulating the level of a sequester by using overly optimistic economic assumptions to reduce the estimated deficit. This potential, together with raising the 1988 deficit target to $150 billion with a $10 billion cushion, seriously reduces the incentive for the President to work with the Congress to come up with a workable reconciliation bill that makes real, lasting reductions in the Federal deficit.

Mr. President, rather than try to jerry-rig this failed system, we need to take steps to confront the deficit head on. The President should convene a budget summit with congressional leaders this year before more time is lost and put all options on the table. We must deal with the deficit problem now in a direct head-on manner. If we continue to rely on procedural sidesteps rather than direct action, we will continue to add to the growing mountain of Federal debt which is placing America's economic future in great jeopardy.

Mr. LEVIN. Mr. President, I will vote in favor of the Gramm-Chiles-Domenici amendment to fix the Gramm-Rudman law in spite of the imperfections of the fix and with the firm hope that these imperfections can be cleared up in conference with the House of Representatives.

It is important to have the underlying Gramm-Rudman law because the unfortunate history over the past few years is that if the President and the Congress have a choice between hard decisions on spending and revenues on the one hand, and inaction resulting in a higher deficit on the other hand, inaction and a higher deficit win out. So, what is needed is an immediate incentive to make hard choices. What is needed is something which makes inaction painful in the immediate sense and not just with respect to the long term economic health of the country. The Gramm-Rudman law establishes the process which prevents inaction on the deficit from being the path of least resistance.

It is important to have an automatic sequester mechanism as part of the underlying Gramm-Rudman law because unless the Congress has the ugly monster of sequester on the horizon—certain that the monster will attack if their is no action by the Congress, and unless the President also sees that monster on the horizon—certain that the monster will also pounce upon him, then neither the Congress nor the President will act to reduce the deficit and, thereby chain the monster. If either the Congress or the President see a way out of sequester other than by reducing the deficit through hard choices, then we can be certain that those hard choices will not be made.

The automatic sequester mechanism represented by this amendment is marginally adequate for this stage in the legislative process. It is vital to fixing the Gramm-Rudman law that we pass this amendment and this debt limit and send it all on to a conference with the House. However, let me make clear that I believe this fix can and must be improved in the conference with the House.

Specifically, I am troubled by the degree of defense flexibility in the sequester order that could be exercised by the President as a result of this amendment. The conference report accompanying the original Gramm-Rudman law made clear that the sequester order's flexibility for defense in that original law was a one time thing for fiscal year 1986. To quote from the report:

> The conferees have included language which provides for limited flexibility in regard to sequestration of defense spending for fiscal year 1986 only. This flexibility is not intended as a precedent for similar flexibility in future years in which sequestration might occur.

It is true that, unlike the fiscal year 1986 flexibility for defense, the defense flexibility in this amendment that is available to the President is conditioned on a majority vote of the Congress. In other words, if the Congress does not approve the President's exercise of this defense flexibility, then the President will have no actual ability to modify the across-the-board cuts as they affect defense programs, projects, and activities. Nevertheless, to the extent that the possibility of exercising this flexibility gives the President the flicker of hope that a sequester order might be less onerous to his cherished defense programs, the underlying rationale of Gramm-Rudman of putting us all in the soup together is undermined.

I am also troubled by the deficit targets for fiscal year 1988 and fiscal year 1989. I believe that they should be $10 billion less in each year if we are going to be serious about deficit reductions and if we are to reduce the prospect that the Office of Management and Budget will game the numbers in such a way as to artificially eliminate the threat of a sequester order in those years. Furthermore, I believe that this modification would provide a smoother glidepath for fiscal year 1990 than does the amendment as it now stands. The vote on the Johnston amendment, which would have made these changes, indicates that a substantial number in the Senate has similar concerns. I trust that the Senate conferees will understand this message as

they engage in their discussions with the conferees from the House.

Finally, Mr. President, I want to make clear that no one should conclude from my voting for the Gramm-Chiles-Domenici amendment that, if this amendment comes back from the conference unchanged, that I am committed to vote for the conference report. The concerns I have expressed go to the core of the workability of the Gramm-Rudman process. As I indicated to the chairman of the Budget Committee, I am willing to vote for this amendment as a way of revitalizing that process, but I am not willing to vote, in the final analysis, for legislation which would only create an illusion that Gramm-Rudman exists if in reality it has died or if it has been revised to point the gun it threatens to trigger more in one direction than another.

DEFENSE FLEXIBILITY PROVISIONS

Mr. STEVENS. Mr. President, before we take a final vote on the so-called Gramm-Rudman-Hollings fix amendment, I want to bring to the Senate's attention some issues relating to the defense flexibility provisions.

As enacted 2 years ago, Gramm-Rudman-Hollings provided for special defense flexibility rules for fiscal year 1986, only.

Those provisions permitted the President, at his discretion, to adjust sequestration amounts within the defense function.

Specifically, military personnel accounts were permitted to have a reduced sequester, or non at all, provided that any lost outlay savings were offset by raising the precentage reduction applied to all other defense programs, projects, and activities.

In addition, for nonpersonnel defense accounts, the sequester applied to one program within an account could be reduced by increasing the sequester of another program in that same account, so long as total outlay reductions sequestered from the defense function remain the same.

The amendment before us today, similar to the special rules for fiscal year 1986, provides for defense flexibility for both personnel and nonpersonnel defense accounts. However, the flexibility with respect to nonpersonnel accounts is made subject to congressional approval.

The congressional approval would be expedited under special procedures.

Mr. President, the conference on the Gramm-Rudman-Hollings fix ought to take a very careful look at these new rules on defense flexibility. At a time of tight defense budgets, a sequester would hit our Nation's defense very hard. We need to be absolutely certain that if we do have a sequester, the Department of Defense at least has the flexibility to mitigate the damage to its defense programs.

Specifically, several issues ought to be addressed in conference:

First, is it advisable to make the flexibility subject to congressional approval? If we do reach a point where a sequester is triggered by Congress' failure to meet its self-imposed deficit targets, is it then fair to tell the Department of Defense that any plant it has to make the sequester less damaging must be approved by Congress?

In connection with this, it appears that the pending amendment has made a tradeoff. Whereas, in fiscal year 1986, reductions in sequester amounts had to be offset within the same defense account, under the pending amendment, the offset can occur anywhere in the defense function. The conference ought to examine whether it is worthwhile to trade off increased flexibility, for the constraint of congressional approval.

With regard to congressional review, an option which ought to be considered in conference is whether it might be more reasonable to permit the flexibility, subject to congressional disapproval, as opposed to congressional approval. This would leave the Defense Department with needed flexibility, but give Congress an opportunity to overturn the Defense Department's sequester modification, if it so chose.

A key provision of the defense flexibility arrangement in the pending amendment, is the fast-track procedure for congressional approval. In reading over the provision, I noticed that although floor debate is severely limited, amendments are not. Because of the very tight timeframe for an approval resolution to be completed, permitting amendments to such resolutions could kill the approval process. Attention ought to be given in conference to making approval resolutions nonamendable.

In fiscal year 1986, defense flexibility was precluded form using base closures to add money back to other defense programs. In the pending amendment, this constraint is limited to domestic base closures. The conferees ought to consider whether we want to permit foreign base closures to occur as part of a sequester modification.

Finally, the pending amendment provides in part that: "new budget authority and unobligated balances for any program, project, or activity within major functional category 050 (other than a military personnel account) may be reduced under an order * * *." I assume this means "reduced by a greater percentage," but that ought to be clarified.

Mr. President, I urge my colleagues to take a serious look at these issues in conference. If another sequester does occur during the next several years, we need to make sure that it will do the least possible damage to our national security and the morale of our Armed Forces. I thank my colleagues for their attention.

Mr. WARNER. Mr. President, I rise today to express my concerns with the prospects this corrective amendment to the Gramm-Rudman-Hollings deficit reduction process will hold for our Nation's defense readiness.

In the original Gramm-Rudman-Hollings deficit reduction process, the President was given flexibility in where to cut the defense budget.

In fiscal year 1986 the President could, with a particular defense program, reduce the budget up to twice the required reduction in order to protect funding for another program within the same account.

This limited flexibility allowed him, for instance, to cut one Navy aircraft program up to twice as much as required in the interest of preserving a different Navy aircraft program.

By the same token, however, the President was not permitted to trim the Navy program to preserve funding for an Air Force aircraft program.

This flexibility was explicit for fiscal year 1986 in the original Gramm-Rudman-Hollings legislation.

Today we are considering an amendment which would allow some flexibility in defense manpower accounts, while requiring congressional concurrence to obtain flexibility in other accounts.

Although the 1986 provision was only for 1 year, the decision to grant this flexibility has not lost its logic or good sense.

Suppose there was no such discretion.

Large, well-established programs for which procured items are already being efficiently produced and which have not already been subjected to reductions in funding would be in the strongest position to absorb Gramm-Rudman-Hollings imposed reductions.

Small, newly initiated research and development programs, in contrast, might be crippled by budget reductions.

Thus, across the board equal percentage reductions will affect programs differently.

The Gramm-Rudman-Hollings deficit reduction process intentionally restricts Presidential discretion in achieving the budget reduction goals this law established.

I urge my colleagues to consider some of the unintended side effects which may occur as a result of passage of this amendment.

I would like to highlight some points which were contained in a Congressional Research Service [CRS] report dated January 6, 1986.

CRS illustrates in this report some of the effects which a sequester might have on the budget authority for the defense function.

Despite a requirement that outlays be reduced by a uniform percentage, the reality will be quite different.

The outlays saved as a percentage of the budgetary resources that had to be cut to reach the outlay targets for the following two examples.

As you will see in these two examples, these percentage reductions reflect the first year so-called blended spendout rates for two programs of 97 and 5 percent, respectively.

However, as I said, the outlays reduced as a percentage of total outlays subject to reduction for both the personnel and procurement program are 10 percent, and the reductions in budgetary resources are a uniform percentage—10 percent—as well.

Example I: Nearly all the funds appropriated by Congress for personnel programs are spent in the first year they are available to be spent. Assume, for example, $1.03 billion in budgetary resources for a personnel program and the need to reduce personnel program outlays by 10 percent, or $100 million in savings from total projected outlays of $1 billion. One would need to reduce budgetary resources—given the blended spendout rate—by $103 million, an amount only slightly greater than the outlay savings target.

However, look at another program.

In example II: Funds provided for most procurement programs, in contrast, are spent much more slowly. In the case of ship procurement, for example, only 5 percent of new budget authority is expended in the first year it is available to be spent. Assume, for example, $4 billion in budgetary resources for a shipbuilding program and the need to generate an outlay reduction of 20 percent from total projected outlays of $80 million, which means an outlay savings of $8 million. One would need a considerably larger reduction in total budgetary resources, perhaps $400 million, to produce the required outlay savings.

Thus, in example II, the cut in budget authority would be much larger, by a factor of almost 50, to achieve the required savings.

While I do not intend to oppose the pending amendment, I believe we must make every effort to give the President discretion in how to apportion cuts within defense programs, projects and activities.

Mr. President, I don't mean to focus solely on the sequester.

Obviously, my hope is that this very painful trigger will never have to be pulled, that Congress and the President will work together to make the necessary, well thought-out policy adjustments which will result in a deficit at or below the statutory maximum defict amounts.

That is the point of Gramm-Rudman-Hollings.

And it is a point with which I strongly agree.

Mr. HEINZ. Mr. President, I applaud my colleagues on the Budget Committee for including credit reform legislation in their package of essential budget reform measures for fiscal year 1988. This is an issue I have been pursuing over the last 2 years and a reform that is long overdue.

The credit reform issue has been around at least since the creation of the Federal financing bank in 1974. But neither the FFB nor a succession of other budget innovations over the years have achieved real reform. In recognition of this problem, the Senate at my urging adopted a resolution in April 1986 calling for comprehensive credit reform that became part of the 1987 budget resolution. Hearings have been held in the Governmental Affairs and Budget Committees. The administration has now submitted its credit reform proposal and the essential elements of reform have been endorsed by our Budget Committee colleagues.

The plan before us represents a comprehensive reform of the process for budgeting and managing Federal credit programs. It would provide a uniform basis for measuring the cost of credit, and would for the first time permit accurate tradeoffs among credit programs and between credit and direct spending programs. The proposal incorporates much of my credit reform plan, and the best elements of the plan presented by the administration in March. At the same time, controversial issues like forced asset sales have not been allowed to detract from our reform goals.

Some may ask why, at a time of record budget deficits, we should even worry about an arcane issue like the credit budget—a matter of concern to only a few technicians at OMB and CBO. I believe very firmly that credit reform is not merely a technical issue, but is essential to any effort to control the budget deficit.

The reasons are obvious. There is more than $1.2 trillion of Federal credit outstanding that affects nearly every sector of the U.S. economy. In dealing with very tight budget constraints, we have shifted direct spending programs to loan programs and subsituted guarantees for direct loans in search of budget savings. We have restructured entire Federal programs on the basis of budget accounting rules for credit that provided only the vaguest notion of the costs involved.

Such misrepresentation and misdirection of credit in the budget cannot be allowed to continue. It adversely affects the operation of the Federal Government. It hides spending from the deficit calculation. It serves both our constituents and the welfare of the American people poorly.

The credit plan before us differs in some respects from the approach that I proposed, but it has the essential elements necessary for effective control of Federal credit and an end to budget gimmicks. It is a solid workable plan that I support, and I urge the support of my colleagues for the Federal Credit Reform Act of 1987.

Mr. CRANSTON. Mr. President, as the chairman of the Veterans' Affairs Committee, I wonder if the distinguished chairman of the Budget Committee would clarify for me three matters regarding the pending Chiles-Domenici-Gramm-Byrd-Dole amendment.

First, would anything in the pending amendment impose or provide for any ceiling or other restriction either on the numbers or total amounts of loans made or guaranteed under the VA Home Loan Program under chapter 37 of title 38, United States Code, or on the numbers or amounts of education loans under section 1798 of title 38 or of rehabilitation loans under section 1512 of title 38?

Second, would anything in the pending amendment impose or provide for any ceiling or other restriction on the making of so-called insurance policy loans under the various veterans' and service members' insurance programs under chapter 19 of title 38?

Third, would anything in the pending amendment alter or affect in any way the sequestration exemptions and special rules applicable in current law to various veterans' benefits and services?

Mr. CHILES. Mr. President, I thank the Veterans' Affairs Committee chairman for raising these concerns. The answer to each of his questions is no.

Mr. CRANSTON. Mr. President, I thank the Senator and would like to raise one additional matter on which I would like to have his response.

It is my understanding that there is no intention on the part of the Senators who will be serving as conferees on this legislation to agree on any provisions in conference as to which those same three questions would be answered any differently. Is that understanding correct—that is, would it be the Senate conferees' intention to maintain in conference the positions indicated by the answers to my three questions?

Mr. CHILES. Mr. President, the answer to the Senator's question is yes, I intend to maintain in conference the position indicated in my answer to the Senator's earlier questions.

Mr. GLENN. Mr. President, I opposed the Gramm-Rudman budget measure when it was originally introduced, and I rise today to express my opposition to the pending proposal to revise it. I do so because I believe that Gramm-Rudman is a terrible piece of legislation that undermines our constitutional system of government.

Mr. President, I agree with the authors of this proposal that reducing

our budget deficit is the overriding domestic challenge we face. We agree that these huge deficits are keeping real interest rates high, devastating our balance of trade, and holding down economic growth. And we agree that without decisive action to reduce Government borrowing, this situation can only grow worse.

We also agree, Mr. President, that solving our budget problem is an extraordinarily difficult and painful task. But the Iran-Contra hearings of recent weeks have reminded us of an important lesson—there is a grave danger in resorting to extra-constitutional means to solve problems just because they appear difficult.

This is not just rhetoric. I truly worry about what this proposal does to our system of government. The Constitution gives Congress both the authority and the responsibility to appropriate Federal funds. It does this so that Congress, as the elected representatives of the American people, can establish our national priorities.

It's important to remember that the budget deficit is not the first serious problem our country has ever faced. Indeed, we have faced many serious problems over the past 200 years. And we have managed to solve them because our Constitution provides us with an orderly and workable process of government. Certainly, it has sometimes seemed tempting to use short cuts to solve tough problems. But in this, our Constitution's bicentennial year, we should be particularly attuned to the importance of observing the proper procedures.

In the context of our deficit problem, I believe that Congress' performance has been far better than some people think. Although Congress must accept part of the blame for the deficit, the major share of responsibility rests with the Reagan administration. During its first 6 years in office, the administration successfully pushed for the largest revenue loss in our history, pushed for the largest spending increase in our history, and submitted the most unbalanced budgets in our history. Significantly, Congress has actually appropriated several billion dollars less in budget outlays than President Reagan has requested since he took office.

The administration is continuing to lead us down a path to fiscal ruin. It is continuing to support increased defense spending, oppose equitable revenue increases, and argues that budget cuts should come from domestic programs. And in so doing, it is continuing to ignore the wishes of the American people—expressed both through their elected representatives and through public opinion polls—that they are unwilling to accept further cuts in domestic programs. President Reagan's unwillingness to face these basic facts remains the largest obstacle to real deficit reduction.

I have twice offered an amendment that responds to this problem by imposing financial discipline on the President. The amendment says that the President must either submit a balanced budget to Congress or send us a roadmap showing us how to get there.

My amendment, which I expect to offer at a later time, is not inconsistent with Gramm-Rudman. In fact, almost every Senator who supported Gramm-Rudman voted for my amendment as well; it passed by a vote of 93 to 4 in 1985 and by a voice vote in 1986. But I believe that my amendment provides three distinct advantages over Gramm-Rudman. First, it would force the administration to choose specifically among the many competing Federal priorities; Gramm-Rudman, by contrast, would make automatic, across-the-board, meat-cleaver cuts. Second, it would impose a permanent requirement, while Gramm-Rudman would expire in a few years. Third, and most important, it would allow Congress to continue to fulfill its constitutionally mandated appropriations role, whereas Gramm-Rudman would substitute a mathematical formula for human judgment.

Mr. President, this year we face some of the toughest choices we have ever had to make in setting national priorities. But setting national priorities is our job. And in this, the bicentennial year of the Constitution, it is not a job we can responsibly quit. I urge my colleagues to join me in rejecting any and all versions of the Gramm-Rudman proposal.

AMENDMENT NO. 645

Mr. DOMENICI. Mr. President, have we asked for the yeas and nays on the pending amendment?

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are there further amendments?

If not, the question is on agreeing to the amendment of the Senator from Texas [Mr. GRAMM]. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Vermont [Mr. LEAHY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] and the Senator from New Mexico [Mr. BINGAMAN] are absent because of illness in family.

I further announce that, if present and voting, the Senator from Alabama [Mr. SHELBY] would vote "yea."

Mr. DOLE. I announce that the Senator from Wyoming [Mr. SIMPSON] and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 71, nays 21, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—71

Armstrong	Fowler	Murkowski
Baucus	Garn	Nickles
Bentsen	Graham	Nunn
Bond	Gramm	Packwood
Boren	Grassley	Pressler
Boschwitz	Hatch	Proxmire
Breaux	Hecht	Pryor
Byrd	Heflin	Quayle
Chafee	Heinz	Reid
Chiles	Helms	Rudman
Cochran	Hollings	Sanford
Cohen	Humphrey	Sasser
Conrad	Inouye	Specter
D'Amato	Karnes	Stafford
Danforth	Kassebaum	Stennis
Daschle	Kasten	Stevens
DeConcini	Kennedy	Symms
Dixon	Levin	Thurmond
Dodd	Lugar	Trible
Dole	Matsunaga	Wallop
Domenici	McCain	Warner
Durenberger	McClure	Wilson
Evans	McConnell	Wirth
Ford	Mitchell	

NAYS—21

Bradley	Harkin	Mikulski
Bumpers	Hatfield	Moynihan
Burdick	Johnston	Pell
Cranston	Kerry	Riegle
Exon	Lautenberg	Rockefeller
Glenn	Melcher	Roth
Gore	Metzenbaum	Sarbanes

NOT VOTING—8

Adams	Leahy	Simpson
Biden	Shelby	Weicker
Bingaman	Simon	

So the amendment (No. 645) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 650

(Purpose: To provide that during a two-year period each title of any joint resolution making continuing appropriations that is agreed to by both Houses of the Congress in the same form shall be enrolled as a separate joint resolution for presentation to the President, and for other purposes)

Mr. EVANS. Mr. President, on behalf of myself, Senator HUMPHREY, and others, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself, Mr. HUMPHREY, Mr. EXON, Mr. BOREN, Mr. GRAMM, Mr. DOMENICI, Mr. PROXMIRE, Mr. NICKLES, Mr. HECHT, Mr. MCCAIN, Mr. ROTH, Mr. GARN, Mr. MURKOWSKI, Mr. BOSCHWITZ, Mr. TRIBLE, Mr. SYMMS, Mr. WARNER, Mr. KASTEN, Mr. D'AMATO, Mr. BOND, and Mr. KARNES, proposes an amendment numbered 650.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new title:

TITLE —TREATMENT OF CONTINUING RESOLUTIONS

SEC. . ENROLLMENT OF CERTAIN JOINT RESOLUTIONS.

(a) IN GENERAL.—

(1) Notwithstanding any other provision of law, when any joint resolution making continuing appropriations is agreed to by both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each title of such joint resolution as a separate joint resolution.

(2) A joint resolution that is required to be enrolled pursuant to paragraph (1)—

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure of which it was a title prior to such enrollment, together with such other designation as may be necessary to distinguish such joint resolution from other joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) PROCEDURES.—A joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to a title shall be deemed to be a bill under Clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses of the Congress and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) DEFINITION.—For purposes of this section, the term "title" means any division of a joint resolution making continuing appropriations that is designated as a title.

(d) APPLICATION.—The provisions of this section shall apply to joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this section.

SEC. . POINT OF ORDER.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Standing Rules of the Senate, or the Rules of the House of Representatives—

(1) it shall not be in order to consider any joint resolution making continuing appropriations for a fiscal year unless each title of the joint resolution corresponds to a regular appropriation bill,

(2) any general provisions of the joint resolution are contained in the appropriate title or titles of the joint resolution (rather than in a separate title).

"(b) For purposes of this section, the term 'regular appropriation bill' means any regular appropriation bill (within the meaning given to such term in section 307 of the Congressional Budget Act of 1974 (2 U.S.C. 638)) making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

"(1) Agriculture, rural development, and related agencies programs.

"(2) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

"(3) The Department of Defense.

"(4) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

"(5) The Departments of Labor, Health and Human Services, and Education, and related agencies.

"(6) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

"(7) Energy and water development.

"(8) Foreign assistance and related programs.

"(9) The Department of the Interior and related agencies.

"(10) Military construction.

"(11) The Department of Transportation and related agencies.

"(12) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

"(13) The legislative branch.".

Mr. EVANS. Mr. President, let me be brief. I know it is late on Friday afternoon but this is, in my view, an important amendment and one which ought to be enthusiastically adopted by this Senate and all of its Members.

There has been much talk about item veto and I know there is considerable concern about item veto, but I think we have come to a point, especially during the last year, where we lumped all 13 of the traditional appropriations bills together in one massive continuing resolution and sent to the President $580 billion worth of spending. In doing so we have virtually eliminated the responsible use of the veto by a Chief Executive.

No one, either this one or future Presidents, could afford to engage in a veto knowing that the Government of the United States would literally come to a halt if he exercised that veto. This amendment is very simply. I would introduce it as the Individual Appropriations Act. It achieves not a dramatic difference from how we now do business but, in effect, takes us back to the traditions we have had in the Senate over many years.

We have 13 subcommittees in the Appropriations Committee. We have 13 separate titles which come forward. This bill would require that any continuing resolution, or any attempt by the Congress to put those 13 bills or any number of them together, would then be separated back into their original titles bfore being presented to the President.

In essence, it would divide continuing resolutions into separate titles where each title is identified as a regular appropriations bill.

This amendment identifies those as the 13 appropriations bills we are most familiar with.

It would require that any general provisions of a continuing resolution would be contained in the appropriate title so there would be no separate title for general provisions. It retains the constitutionally mandated two-thirds veto override by both Houses of Congress. It includes a 2-year sunset clause.

So this gives us a chance to try something which, in my view, is nothing more or less than taking us back to the traditional balance we have enjoyed over many, many years in this Congress between the Congress and the Chief Executive.

There may be arguments against a line item veto, but I do not believe that those arguments hold in this case against the dividing of bills into their individual titles.

There was an argument, for instance, that the line item veto would give too much authority to an enrolling clerk. This clearly would not be the case where the individual titles are readily identifiable and separable and, in fact, commonly are separated.

Those who suggest that a continuing resolution leverages the President I suppose would object to this proposal. I do not think it is a question of leveraging a President or giving undue power or authority to one branch or another of our Government but merely restoring a balance which has existed traditionally and which I think ought to be reinstituted.

Mr. President, I think this would be a challenge to a President who has long sought a line item veto saying, "All right, here is an opportunity for you." It would retain an even balance, but it would retain the protection of broad legislation contained in each one of these titles for those Members who are concerned that an individual item that they are deeply interested in, might be picked out of an appropriations bill by a President who enjoyed full line item authority.

Mr. President, I shall take no more time other than to answer any questions that there might be. I think it is a simple and straightforward amendment. It deserves to be on this bill which contains many similar proposals for making our whole budget and appropriations process a little more un-

derstandable, a little more straightforward.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, earlier in a prior session, a bill S. 402, was introduced giving line item veto to the President. The method which we are now talking about is not S. 402 and does not create line item veto authority. It does not extend that to the President. I can assure my colleagues who support S. 402 that we intend to re-offer that legislation to the Senate at the earliest possible date.

The amendment now before us, however, is badly needed and would make a constructive contribution to the budget process. As Members will recall, with some shame I would think, for fiscal year 1987, we passed not one single appropriations bill. Not one of the regular 13 appropriations bills was separately passed by the Senate. Instead, in the 11th hour, plus 59 minutes, I guess you could say, we passed a continuing resolution which encompassed all 13 appropriations bills, and then we sent it down to the White House. Thirteen appropriations bills all rolled into one continuing resolution worth $576 billion, one spending bill, the largest in the history of the world, is what we plopped on the doorstep of the White House before we rode out of town leaving the President no realistic choice at all but to sign that gargantuan appropriations bill even though he objected to a multitude of its provisions, even though if separately presented to him many of those appropriations would have merited and probably received his veto.

It was an act of gross irresponsibility in the view of this Senator and one which the amendment now before us seeks to prevent from recurring. The amendment now before us is not line item veto authority, would not give the President, as I wish it could under the circumstances but does not, authority to pick out individual items and veto them.

That is not at all what is before the Senate. It simply requires that any continuing resolution containing 2 or more, 2 or more, of the regular 13 appropriations bills be broken down into whatever number of appropriations bills there are in the continuing resolution.

If this had been in effect last year with respect to the fiscal year 1987 budget, it would have required this continuing resolution, this gargantuan continuing resolution which we presented the President, worth 576 big ones, billions, to have been broken down into 13 categories, subsections which corresponded to the regular bills. That way the President would have had some reasonable, barely reasonable under the circumstances of the calendar, but some barely reasonable opportunity to exercise his veto under the Constitution.

As things now stand, as practices have developed, Congress has devised a way of precluding the President, practically speaking, from vetoing appropriations bills. We chunk them all together. We send them down there at the 11th hour, 59th minute, 59th second and say to the President, "OK, it is your baby, sign it or throw the entire Government into chaos."

Meanwhile, of course, we have all gone home. It is an unreasonable procedure as it has developed, whether that development was conscious or deliberate or whatever. It is an unreasonable proposal, an irresponsible practice.

That is what this amendment seeks to address. It would simply require, once again, that any continuing resolution containing two or more regular appropriations bills be broken down to present those appropriations bills in effect separately to the President so that he can veto one or as many of them as he thinks merit his veto. This would, under this new practice which has developed, restore the President's practical ability to veto appropriations bills. It is badly needed, and I hope that the Senate will adopt this amendment. It is not the line item veto authority which the majority leader hoped would not be presented. The majority leader's hopes, as so often seems to be the case, have been realized. This is not the terrible thing he was expecting. It is something much milder, much meeker, but nonetheless badly, urgently needed. It is a reasonable measure, a measure that would restore fiscal responsbility to the Senate. I would think that on the day we have under consideration the bill which raises the national debt limit—I refer to billions as big ones, but they are even small compared to what we are asked to do in the way of raising the national debt limit by this bill to $2.57 trillion, terrifically big ones, trillion—Senators would want to ameliorate to some extent their vote for raising this debt limit by embracing now in the same bill a budget reform that is badly needed and that will help to curb some, some, of the budgetary abuses that have grown up through practice. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire has yielded the floor. Are there others who wish to debate?

Mr. NICKLES. Mr. President, I will be very brief, but I wish to congratulate my colleague and friend from Washington, also from New Hampshire, for offering this amendment. I also have been advocating this approach. I think we need to restore checks and balances, and certainly in the Constitution as set up by our forefathers they never envisioned Congress encompassing all appropriations bills in one package and giving the President the option to sign or veto that entire package.

That is exactly what happened last year. The chairman of the Appropriations Committee is on the floor. Last year, we passed one bill, one tremendously large continuing resolution. It was $576 billion. It had all 13 of the appropriations bills in it. We sent it to the President and said, "Mr. President, you sign it all or veto it all," knowing full well that if he vetoed it all we were not going to be paying the military, we were going to have obligations that we had definite commitments on that we would not be fulfilling. We basically offered him no choice. We offered no checks and balances. Basically, all the checks were being held and written by Congress with no balance whatsoever. Congress was holding all the cards, in my opinion was dealing in a manner that was not equitable, not fair. It made no sense and it was not a good deal, not for this administration, not for any administration, and certainly not good for the taxpayers. This amendment, in my opinion, is a bare minimum of restoring the checks and balances. I think it is very positive and I hope we will adopt it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma has yielded the floor. Are there others who wish to debate? The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I do not rise to speak to this subject in its spirit, but I rise to make the point, this is a good way to keep us here for quite a while on this debt ceiling measure. This is a very controversial measure. It is a proposal that does not belong on the debt ceiling bill.

There is no Member of the Senate for whom I have more respect than the distinguished Senator who has offered this amendment. But the fact is that this presents some real policy questions, policy questions for the Appropriations Committee, policy questions for the Budget Committee, policy questions for the Finance Committee.

I believe the question is: Maybe we should do this, maybe we should not. I think I lean toward not doing it. I believe it places in the hands of the President the opportunity to say: "I want more defense spending and less domestic spending," and maybe some other day, "more domestic spending and less defense spending."

I do not believe that is the way the Government should run. I think it would demean the process so far as Congress is concerned. I believe we would be giving up many of the powers we presently have. I believe it is an issue that should be debated when we have adequate time to do so. I do not believe it belongs on the debt ceiling bill, and I hope the author will

see fit to withdraw it and make arrangements with the appropriate committees to have it go through the appropriate processes. Many of us have strong feeling that it is not an appropriate measure on the debt ceiling bill.

Mr. STENNIS. Mr. President, I shall not take much time.

This matter has not been called to my attention, at least. The substance of it is of the greatest importance. I was going to suggest to the authors of it that if they would withdraw or take whatever steps are necessary, I think there can be a chance for the Appropriations Committee to thoroughly go over the entire matter and see if they have major suggestions. I think when that is done, it certainly should have representation on the Appropriations Committee.

We have been tied up very closely here lately with reference to getting preparations made to take up the appropriations bills. We are hoping to have separate bills. That will be our position.

I am not trying to defeat this matter. Something ought to be done in this field. We would be greatly strengthened by the committee having a chance in trying to control it.

Mr. PRYOR. Mr. President, I will not take long.

I have the greatest esteem and admiration for the distinguished Senator from Washington, who has proposed this amendment.

There may be a day when I am willing to vote for such an amendment. It has not arrived.

I am not willing today to support an amendment to a bad policy. In supporting the Evans amendment which is before the Senate today—and I say this with the greatest respect—I think what we are doing is elevating a bad system into basically what is going to be accepted practice. I think that when we accept the practice of a continuing resolution year after year and session after session, we are endangering the very foundation, the root structure, of our system.

Mr. President, I think that we are doing something to the appropriations process—I know what the Senator is trying to do. I think it will do just the opposite.

I can see us a year or 2 years or 3 years from now getting to the same place we are going to be in the last part of September. By the last part of September, we will have experienced a massive train wreck in the Senate of the United States and in the House of Representatives. It is not the fault of any person. It is not the fault of any leader. It is the fault of the system that we have become involved with and bogged down with, which is paralyzing the system itself.

I keep saying that we are not elected to sit at the airport or wait at the railroad station day after day, waiting for the train to come back. It is not the train that is at fault. It is the structure of the track system, it is the crossties, it is the foundation that we have to change.

What we are doing is elevating a very, very bad practice that we have fallen into in the last 13 years—we are elevating that to a system of standard procedure.

A lot of people call this the CR, and we are going to have another CR—let us face facts. A lot of people say "CR" stands for "continuing resolution." "CR" does not stand for "continuing resolution." "CR" stands for "combined retreat." That is when the House and the Senate of the United States finally, at year's end, admit our failure.

Look at us: 1985, five appropriation bills; 1984, four appropriation bills; 1983, one appropriation bill; 1982, no appropriation bills; 1981, one appropriation bill; 1980, three appropriation bills.

What has happened to the appropriation process? It has been paralyzed—and I say this with respect to my friends on the Budget Committee. I see the distinguished chairman and the ranking member on the committee on the floor at this time. The appropriations process has been paralyzed, has been suffocated by the Budget Act and the budget processes that we have adopted pursuant to 1974.

So, we adopt, at the end of every session, something that is instant government. It was not cooked in a stove. It was cooked in a microwave oven. Last year's CR weighed 18 pounds. Very few of us knew what was in the CR. It was, I repeat, our admission of failure that we go through and admit at the end of each fiscal year, when we get ready to go home.

It is these reasons, Mr. President, elevating this bad system to a permanent practice, which force me to poppose the amendment of the distinguished Senator at this time.

I yield the floor.

Mr. BYRD. Mr. President, this is not a line item veto amendment. I have considerable sympathy for the amendment per se. I regret that in recent years we have seen more and more resort to a continuing resolution, as we have been unable to pass the various regular appropriation bills.

Last year, not a single one of the 13 regular appropriation bills passed Congress and was sent to the President.

Having said, that, however, I would hope that we would wait until another day and use another vehicle or approach to this amendment. I think it would be an additional burden on the conferees of the Senate to have to carry this amendment to conference.

We know the time is short. I would hope that we would not support this amendment on this debt limit resolution. As I say, it is not a line item veto, so I do not have the visceral reaction against it that I would have to a line item veto.

Let us try, however, to ease the burden on our conferees. They have a lot of work to do. Let us not add to their burdens.

This amendment is not germane. It is relevant. Germaneness is more restrictive than relevance. We could probably craft a Contra aid amendment or a Persian Gulf amendment that would be relevant, but it would not be germane to this debt limit resolution.

So I hope that my colleagues will support a motion to table, which I understand will be made by the distinguished Senator from Mississippi, the chairman of the committee. I will support his motion to table.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON addressed the Chair.

Mr. STENNIS. I did not understand the Chair.

The PRESIDING OFFICER. Was the Senator from Mississippi asking for recognition?

Mr. STENNIS. Yes.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I say to the members of the committee I do not know whether the experiences have carried them fully through the real meaning of this proposal. If the committee has to go over to the pattern there of long time bills every year and put it all into one bill and then go to a conference with the House, fine as they are, it is virtually an impossible situation to get down to the real merits. I am talking about the appropriation pattern that carries the money for all the Government for the calendar year.

It is virtually impossible to get down and give a conference the utmost consideration by the most experienced Members that we have to really go to the bottom of all those matters and work out the agreements. I do not know of any good that it would do toward reaching the desired ends to have this cumbersome method that I did not know—well, it is a matter of judgment, of course—but I do not know of any procedural matter that could be thought of that would come nearer to diminishing the effectiveness of the committee and those who are affected by it and the departments of the Government that have to be heard, of course, and considered with reference to each of these bills.

It justified a separation of the entire matter and proceeding then with the staff and with members of that committee that are experienced.

When you deny both of those, you deny the best chance to get the best bill.

I am not going to jump to try to table a bill ahead of time or anything like that, but if we do not have a chance—there has been no notice I do not think to any Member, I know I have not had any notice of any kind about this matter—so I would feel justified and would at the proper time make a motion to table the matter with the hope that will give a chance for something to be worked out, and I believe if we can get the ear of the Members there is no doubt about the result.

So, in the interest of saving time, I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I look at this amendment really in two ways: one is the rationale and on the merits. And like the Senator from Arkansas and the Senator from Mississippi and others, I do not find myself totally opposed to this concept on the merits.

I think it is different from a line item veto which I happen to oppose very strongly. I do not like that we are involved in continuing resolutions also.

I take a little different view than our Senator from Arkansas that the reasons for a continuing resolution are all the Budget Act. I do not think that is true. I think part of the reason for a continuing resolution is that we have and have had for the last 7 years a battle between the administration and the Congress as to whether we were going to do something about spending, what we were going to do with spending, and I think the continuing resolution has been a device primarily used, started by the House where they hold back their bills many times to try to strengthen the Congress' hand in that battle. I think if you really look through the history of each continuing resolution—I would like to go back and take you through some when we have the time, I will not do it tonight—and sort of portray how that comes through.

Now, we are talking about changing this, and it is budget reform, no doubt about that. But I said to my good friend from New Mexico when we started this, I thought that we should put in some good efforts at budget reform, good faith efforts, and we did those that we would agree on. I thought there were others that had to do with real powers that we were talking about and this is power that we are talking about. Right now the President thinks this gives us more power, and we use the continuing resolution because we think it adds to our power. So we are talking about basic power now.

And if we are going to talk about this I think we ought to sit at the conference table when we are talking about are we going to do something for real on this deficit and is the President really ready to do that. Have we not asked over and over and over again this year, the majority leader, the Speaker, everyone else, "Please, Mr. President, sit down with us, please negotiate with us, please do not make us go over the cliff or to the edge of the cliff before we negotiate that."

Now I have heard Director of OMB Miller and I have heard others say: "We will negotiate anything on budget reform. You do all these budget reforms and then maybe we will talk to you on something else."

I think this is one of those items that if we are ready to talk seriously, yes, let us talk, let us put this one on the table, let us put revenues on the table, let us put whether we are serious about doing something to the deficit on the table, and let us have a table layered with a lot of things on it where everybody can sit down and negotiate.

But this is an item that the Senator from Florida does not think we ought to change right now. It has not been through any of our processes. You can make all kinds of good argument for it. Yes, you can. I can, too. I do not think this is one of the things we should change now when we do not know whether the President will ever deal with us or not. We do not know whether we are ever going to get a chance to negotiate or not.

I think the Senator from Mississippi is right that this is an amendment that we should table, and I think it will sure keep this bill going a long, long time if we do not do that tabling.

The PRESIDING OFFICER. Does the Senator from Mississippi wish to offer a motion to table?

Mr. STENNIS. Not at this time.

Mr. EXON. Mr. President, I suggest the Chair is out of order making suggestions to the Members of the body. The Senator from Nebraska sought recognition from the Chair. He recognized me earlier. I yielded to my friend from Mississippi because I thought he had asked for recognition earlier. But I frankly object to the Chair suggesting from the Chair's station a tabling motion at the same time that the Senator from Nebraska is seeking recognition to speak on this matter.

The PRESIDING OFFICER. I had interpreted from statements the Senator from Mississippi indicated his intention to offer but did not, in fact, offer a motion to table, and I believe that is correct.

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair. I think it was very clear, and I was sitting right next to my good friend from Mississippi, that he indicated that he would offer a tabling motion at an appropriate time. I think it was clear he did not intend to offer it at that time. I think it is his usual consideration that he is showing to the other Members of the body by our distinguished colleague from Mississippi.

I thank the Chair for recognition.

Mr. President, I rise in support of the amendment offered by my colleague from the State of Washington. I think it is a step in the right direction. There are all kinds of arguments that could be offered as to why we should not take this up at this time.

I say, Mr. President, that there could be no more appropriate time to take this matter up in view of the overwhelming and I emphasize the word "overwhelming" endorsement of a piece of legislation that was very much opposed by this Senator on the last rollcall vote.

So I think this all fits into the picture. We have a financial crisis on our hands. I, for one, would not wish to overburden any further the excellent work that is done time and time again by our Approprations Committee led so ably by our colleague from Mississippi, and the ranking member, my friend and colleague from the State of Oregon.

I have heard comments here on the floor today that this whole mess we are in is because of the budget process. That is ridiculous, Mr. President, on its face.

I think that the budget process has not worked as it was originally envisioned when it passed this body before this Senator was a Member.

But I would suggest that we would be in much worse fiscal shape today had we not had the budget process.

So the budget process will continually be under attack and if the budget process is wished to be criticized for this mess we are in now, then so be it.

The budget process, I am sorry to say, has produced the so-called Gramm-Rudman bill, that this Senator thinks is an ill-advised piece of legislation. But, of course, that is not shared by the vast majority of my colleagues.

I appreciate the fact that the Senate has a responsibility to work its will. But I am going to take a few minutes right now, Mr. President, to set the record clear on how this Senator feels not only about this piece of legislation which I think helps correct to a minor extent the fiscal situation that this country faces, that I do not think that the Gramm-Rudman bill itself can handle.

Mr. President, once again the U.S. Senate worked its stealthy magic behind the skirts of the Gramm-Rudman proposal. In 1985, all will remember, this same gimmickry was the cloak to cover the historic breakthrough, the $2 trillion debt level. The record will show that that is the case.

The same pattern is used again this year with an extra frill here and there, but the same tragic result, the horren-

dous new 1987 debt level of $2.8 trillion.

Many of us who are very, very concerned about this faulted process have worked hard and have appealed time and time again for true fiscal responsibility. We have worked through the budget process, through the caucuses, individual conversations, and other responsible actions, including amendments to cease prolonging the agony by putting things off until later. And we have done this to little avail, despite our efforts.

This action today that we are taking on the amendment offered by the Senator from Washington is indeed a proper follow-on, Mr. President, to help correct the mistakes and the shortcomings of the Gramm-Rudman proposal, in the opinion of this Senator. This action that we took earlier today with the Gramm-Rudman proposal is the same song, second verse, sung loudly to cover up the sour notes.

We have even added a new wrinkle by setting up to May 1989, after the election—I emphasize, Mr. President, after the election—the time to break through the $3 trillion debt ceiling limit of the United States of America.

Let no one be fooled. Today, history is simply repeating itself.

I have a great amount of respect for the sponsors of the Gramm-Rudman legislation. I share their abhorrence for deficit spending and have often stood shoulder to shoulder with them in supporting a number of deficit reduction efforts. The budget deficit threatens the very economic health of generations of Americans. It has weakened our financial independence, made the United States the largest debtor nation, and has helped produce the record trade deficits of recent years.

Certainly, the Gramm-Rudman law did institute some good and important budget reforms. It put the Congress on a tight timetable for the consideration of the budget and instituted a system where the Congress must provide offsets for new spending. Those reforms have been good and have improved the congressional budget process.

In spite of these positive factors, much of the Gramm-Rudman scheme is pure folly. I have consistently opposed the Gramm-Rudman law because it is an abdication of congressional responsibility; it delays meaningful action on the deficit; the result it produces is grossly unfair; and after 2 years of operation, it has not worked.

Mr. President, the Gramm-Rudman approach is an abdication of congressional responsibility. The Constitution of the United States grants the Congress the power to lay and collect taxes, pay debts, and provide for the national defense. Rather than face our responsibility to manage the fiscal affairs of the Nation, the Congress now spends valuable hours reconstructing Gramm-Rudman's Rube Goldberg automatic sequester mechanism to turn our responsibility over to the Office of Management and Budget. If a series of economic forecasters determines that the Congress has not reduced the deficit by a sufficient amount, the authority to make a portion of the Federal budget is turned over to the head bureaucrat in the Office of Management and Budget.

I simply do not believe that the American people elected the Congress to turn over its constitutional fiscal responsibilities to a nameless, faceless, unelected bureaucrat.

In addition, the Gramm-Rudman process actually delays serious action on the deficit. The budget reconciliation bill passed in 1986 is a prime example of the type of deficit reduction the Gramm-Rudman process inspires. The bill was loaded with spending shifts, one-time asset sales, and accounting gimmicks which reduced the deficit projections for the purposes of avoiding a sequester, but did very little to reduce Federal borrowing or reduce the structural deficit. Rather than force action, the Gramm-Rudman law fakes action.

Perhaps most disturbing is the fact that, if the Gramm-Rudman procedure were played out, it would produce a result which is grossly unfair. In its basic and theoretical form, there is great appeal to taking across-the-board action to reduce the deficit. I have worked over the years with my good friend from South Carolina to formulate across-the-board freeze budgets. If Congress is unable to reduce the deficit, it does make a good deal of sense to freeze or reduce each program by a uniform amount to deal with a budget shortfall. Such a procedure spreads the burden of deficit reduction and preserves the relative priority of each program.

I say, Mr. President, that it does; it does, indeed, make a great deal of sense for an across-the-board cut if that is the only way we can solve the problem.

Unfortunately, Gramm-Rudman is not an across-the-board deficit reduction. Over one-half of all Federal spending is exempt from the Gramm-Rudman formula reductions. Those nonexempt programs must absorb a disproportionate share of the deficit reduction burden. Agriculture is a typical example. Agriculture takes an extremely heavy hit in a sequester scenario.

The other day, the chairman of the Senate Budget Committee described Gramm-Rudman as the nuclear deterrent of the budget process. I suspect that it is more akin to the policy of mutual assured destruction. It seems ridiculous for the Congress to invent a process which produces a result which is bad for the country and that the Congress and the President do not support. We should attempt to design a workable budget process, not a suicide pact.

Mr. President, it is time to face the facts. After 2 years of operation, by and large, Gramm-Rudman has not worked. In its first year of operation, the United States rolled up a $220 billion deficit, the largest ever. The Congressional Budget Office just reported that in 1987, the deficit will likely exceed $160 billion, about $20 billion above the Gramm-Rudman target. However, the Acting Director of CBO acknowledged that this slight improvement in the deficit picture is largely temporary and due to an unexpected windfall from tax reform, spending shifts, and one-time asset sales. After 1987, the baseline once again takes an upward path and hovers indefinitely in the $200 billion area. Now even the authors of the Gramm-Rudman law are backing away from their commitment to move the deficit down year to year and to balance by 1991.

Mr. President, we are simply kidding ourselves. Congress, in passing its $2.8 trillion debt ceiling, and reinstating the automatic sequester, is patting itself on the back for having fiscal "courage." And I use that word advisedly.

Mr. KERRY. Will the Senator yield for a quick question?

Mr. EXON. Certainly.

Mr. KERRY. I know the Senator is making an important statement and I am sorry to interrupt. I just wanted to make a personal judgment about the use of time. I was wondering if the Senator could inform me how long he might expect.

Mr. EXON. I intend to take about 3 additional minutes.

Mr. KERRY. I thank the Senator very much.

Mr. EXON. The Gramm-Rudman plan reduces deficit estimates, but time has proved it is a meager tool for reducing deficits.

I support budget process reform. I have authored a constitutional amendment to require that the President submit and the Congress pass a balanced budget; I have authored a debt ceiling reform which would incorporate debt ceiling legislation into reconciliation, and if Congress or the administration exceeds their planned borrowing, a three-fifths vote would be necessary to increase the debt ceiling above the level contained in the budget; I am a cosponsor of the Quayle-Exon enhanced rescission bill; and I support line-item veto for the President. And that, basically, is why I am supporting the amendment offered by my friend from Washington.

In closing, Mr. President, let me simply say that, having said that, I realize that all the budget reform in the world will not solve the deficit crisis.

There are only three ways to reduce the deficit: That is cutting spending, improving receipts, or pursue a combination of both.

Mr. President, here the process reform is used as a camouflage for dramatic increase in Federal borrowing. Rather than reducing the deficit, we are tinkering with the procedure. The real problem is not procedure, it is people. The deficit crisis will not be solved until the Congress and the President sit down, as the distinguished chairman of the Budget Committee has just indicated to the Senate, and work out a program of shared sacrifice.

As a former Governor who put together eight balanced budgets I can attest to the fact that there are no procedural magic wands; no painless way to cut spending. Only with hard work through negotiations and good faith and good efforts, Mr. President, can we reach a consensus that produces the result that the authors of the Gramm-Rudman proposal seek.

This Senator and the American people, I think, seek a similar solution.

Mr. President, that concludes my remarks. I understand a tabling motion——

Mr. STENNIS addressed the Chair.

Mr. EXON. Mr. President, I still have the floor, I believe. Mr. President, I still have the floor. I will yield the floor after advising the Chair that I think there are those of us who know that some people want to move ahead and get this tabled and move on about the process of government but I say most of us have been here working very hard all week and this is a matter that I think should not be disposed of hurriedly.

I see that there are at least two Senators on the floor, my friend from Washington and my friend from New Hampshire, that I suspect would like to speak briefly on this.

While I have the floor, to protect my friends, I would like to seek a unanimous-consent agreement that, before a tabling motion is made that will allow 5 minutes—5 additional minutes for the proponents of the amendment offered by the Senator from Washington, and 5 minutes for the opponents and at that time a tabling motion would be in order.

The PRESIDING OFFICER. Is there——

Mr. STENNIS. If I am in order, I would certainly agree to what has been suggested here about the 5 minutes. Otherwise, I would make a motion.

Mr. KERRY. I would certainly object. Can I suggest there has been a long debate——

The PRESIDING OFFICER. Does the Senator——

Mr. KERRY. I was going to ask the Senator if he would modify his request to a total time of 5 minutes equally divided. Five minutes equally divided.

Mr. EXON. We are talking about 5 minutes, Senator.

Mr. KERRY. We have been talking now for almost an hour.

Mr. EXON. If there is an objection, there is an objection. I suspect——

The PRESIDING OFFICER (Mr. DASCHLE). Does the Senator from Massachusetts object?

Mr. BYRD. Mr. President, I suggest we let the Senator get recognition. He is the author of the amendment. He is entitled to get a little bit of time, but I wonder if we could limit that to 5 minutes and then let the Senator from Mississippi make the motion.

Mr. EVANS. Mr. Leader, I will not take 5 minutes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request made by the Senator from Nebraska which was that there be 5 minutes on each side?

Mr. BYRD. We do not need 5 minutes on each side.

Mr. HUMPHREY. I object.

The PRESIDING OFFICER. The Senator from New Hampshire objects.

The Senator from Nebraska retains the floor.

Mr. EXON. The Senator from Nebraska yields the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, let me just take 2 minutes and I hope we can get to a vote quickly. I know many Members, including this one, are anxious to leave here but let me only respond to several of the arguments that have been used in opposition.

This is simple, straightforward, understandable. It is not in any respect elevating a CR to an art form, as my distinguished colleague from Arkansas suggested.

Quite the contrary, this bill would not even take effect or have any effect whatsoever on any appropriations act that came forward, if it came forward separately.

If, however, they were combined together in a CR which had passed both Houses in the same form, then and only then would the elements of that CR be divided into its separate appropriations bills.

I do not think that is hard to understand. I do not think that it is unusual. It is merely returning us to a tradition we have enjoyed in this Senate in years past and one that I think that is responsible.

It in no respect is so unusual. It would be a trial with a sunset for only a 2-year period and I hope that this evening, knowing that it is late, knowing that it is a Friday, we simply will not take the easy way out and duck what I believe is simply a small step forward.

A continuing resolution was, in my understanding at least, utilized when we could not reach agreement on an appropriation bill and must then allow continued spending for a period of time until a final Appropriations Act could be passed.

However, in recent years and particularly this last year, conference committees met separately on their own individual parts of the bill. They reached agreement on what the spending patterns ought to be for the next year. They could have been brought back as separate conference reports to the Senate and the House, but the choice was to put them all together in what really is not a continuing resolution but what is, in reality, a broad, huge, omnibus appropriation bill.

Mr. President, I hope we do not duck from this one small step and I certainly hope we do not table this step forward.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I, too, understand the wish of Senators to move on, but I would point out, even though this is Friday afternoon, this is, first of all, a very important matter. It is a measure that is badly needed and with respect to the issue of time, we have waited hours upon hours, if not days upon days this week, in various kinds of recesses. Why could we not have been offering amendments during those periods? That is a mystery to this Senator.

But the effect of that decision is to put us right up into the corner in which we so often find ourselves when worthy amendments are shoved aside and Senators cast as villains if they seek to exercise their legitimate rights.

With respect to the amendment before us, Mr. President, the Senator from Arkansas said he thought he had a new definition for the abbreviation CR: not continuing resolutions, but continuing retreats. That is not bad, but I think I have got one better.

CR stands for congressional reelection. Congressional reelection. This process of jamming all 13 appropriations bills into one, dropping it on the President's doorstep on the eve of the new fiscal year, indeed perhaps several days into the new fiscal year, is just the latest clever strategy the Members of Congress have devised to get themselves reelected; have devised to avoid at all costs cutting spending anywhere at any time; have devised to enable themselves to continue jamming into the barrel more and more pork until the stuff is oozing through the cracks between the staves.

CR stands for congressional reelection. Some talk about the need for electoral reform. Well, let us cast this as an electoral reform issue instead of a budget issue. The Senator from Illinois makes a point that is ordinarily

valid. But I make the point that the effect of this amendment is to restore the Budget Act with respect to the intent of the Congress providing the President 13 separate appropriations bills. There is nothing new about that proposal. The debate, those hearings were held 13 years ago, in 1974, when the Budget Act was passed which, among other things, required 13 separate appropriations bills.

Congress has learned how to defeat that for various reasons. We seek to restore that requirement. It is simple. It is straightforward. Highly respected Members of the Senate, including the chairman of the Budget Committee, seem to say that they sympathize with us except with respect to offering it now.

Well, we always have excused why we should put off doing things that badly need to be done. Senators have to catch airplanes. This is not the right bill. It should have hearings. Always there are excuses.

As I said, this issue has been debated. The Congress back in 1974 thought the issue was settled. But with respect to human nature, nothing is ever settled and no constitution and no statutes will ever overcome the defect which created this horrendous national debt and these continuing annual deficits, which is human nature itself.

Mr. President, this a badly needed provision. It is reasonable. It would restore the Budget Act with respect to the requirement that Congress present 13 appropriations bills.

This would prevent the Congress from doing what it did last year, lumping them all together, lumping a $570 billion single appropriations bill. Can you imagine that, a $570 billion appropriations bill presented to the President when he had no real option to veto?

Mr. President, that is the highest act of fiscal irresponsibility which we can correct if we adopt this amendment.

Mr. STENNIS. Mr. President, if no other Senator wishes to speak, I move to lay the amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 650. The motion is not debatable. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Vermont [Mr. LEAHY], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] and the Senator from New Mexico [Mr. BINGAMAN] are absent because of illness in family.

I further announce that, if present and voting, the Senator from Vermont [Mr. LEAHY] would vote "yea."

Mr. DOLE. I announce that the Senator from Wyoming [Mr. SIMPSON] and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 49, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—43

Baucus	Gore	Moynihan
Bradley	Graham	Nunn
Breaux	Harkin	Pell
Bumpers	Hatfield	Pryor
Burdick	Inouye	Reid
Byrd	Johnston	Riegle
Chiles	Kennedy	Rockefeller
Conrad	Kerry	Sanford
Cranston	Lautenberg	Sarbanes
D'Amato	Levin	Sasser
DeConcini	Matsunaga	Stennis
Dodd	Melcher	Stevens
Ford	Metzenbaum	Wirth
Fowler	Mikulski	
Glenn	Mitchell	

NAYS—49

Armstrong	Gramm	Nickles
Bentsen	Grassley	Packwood
Bond	Hatch	Pressler
Boren	Hecht	Proxmire
Boschwitz	Heflin	Quayle
Chafee	Heinz	Roth
Cochran	Helms	Rudman
Cohen	Hollings	Specter
Danforth	Humphrey	Stafford
Daschle	Karnes	Symms
Dixon	Kassebaum	Thurmond
Dole	Kasten	Trible
Domenici	Lugar	Wallop
Durenberger	McCain	Warner
Evans	McClure	Wilson
Exon	McConnell	
Garn	Murkowski	

NOT VOTING—8

Adams	Leahy	Simpson
Biden	Shelby	Weicker
Bingaman	Simon	

So the motion to lay on the table amendment No. 650 was rejected.

Mr. EVANS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. STEVENS. Mr. President, I have not voted with my good friend and southern neighbor on this amendment because I sought the advice of our Rules Committee counsel.

As a member of the Appropriations Committee, I have the feeling that this kind of amendment should apply, if it applies at all, to all legislation.

The trade bill has recently passed this body with separate titles, and I felt that we should have sent separate bills to the President rather than one omnibus bill covering everything from plant closings to Soviet fur imports.

However, without regard to whether it is appropriations or substantive legislation coming from the legislative committees, I feel compelled to raise the issue of constitutionality so far as this amendment is concerned.

Only a bill that has been voted upon by both Houses affirmatively can go to the President; yet, if this amendment carries, there would be separate bills, none of which would have been voted upon separately by either House of Congress, which would be sent to the President.

Second, the amendment presumes that every continuing resolution has 13 separate sections. On the contrary, in many instances, our continuing resolutions have not always covered each 1 of the 13 separate subcommittees in our Appropriations Committee.

I share the frustration that the Senator from Washington has expressed by offering this amendment, but I say to the Senate that, in my judgment, the counsel of the Rules Committee who advised me is correct.

This amendment would not result in sending the President bills that had complied with the Constitution; and under that interpretation—and I believe the constitutionality issue needs to be addressed—I think it would be unwise for us to adopt a procedure that does not comply with the Constitution.

If the Senate and the House wished to do this and create a procedure whereby once a bill is passed on a vote by each House, the bill that has been passed can be separated by title and individual bills sent to the President, then I think it would comply with the Constitution. This amendment does not do that.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, let me assure everyone I am not going to take a lot of time. I have been fortunate to be on the committee a long time. I am certain in my mind that this resolution as prepared now will be a distinct handicap to put on the Appropriations Committee to be abided by.

I know as a fact that the membership of the committee, most of them, try awfully hard to get the bills in time in the old way and move them along, move them along to the President in the natural course, not pile them up and send a whole year's appropriations in one basket. That has been going on but it has been over the opposition of many of the Members.

I am not one to quickly complain. Here is an institution, ladies and gentleman, an institution within an institution. The Appropriation Committee is as old as the Constitution itself, and has an unbroken line of service all these 200 years.

They have taken today, and I speak with deference to the individual, but

without any notice, without any warning, without any kind of ordinary courtesies to some of the Members at least, and it is proposed to largely abolish the institution as we know it now.

So I hope that we can take enough thought and rethink this matter and give a chance. There has not been a chance here this afternoon after it was announced they had such a proposal, not a chance in the world to really prepare to refute it.

There are many Members who are not here, so it is with every handicap almost that you could have.

I do not like to be in a frame of mind that will condemn anyone for voting to abolish it, which is what it means, but I do pray and hope that you will not in a rushing moment here greatly maim and mutilate the fine institution that is within the Senate itself as an institution.

Let us not do that until we have had a chance for a second thought and an examination of the facts. It is just ordinary justice to give the membership a chance to look into the facts and at least read over the proposed amendment. I have not seen yet a copy of this proposal.

So I hope there will be a chance to make this second choice. The ones who are looking for veto power, selected veto, are going to be sadly disappointed and it will not be a practical remedy for that purpose.

So I hope that second thought will save this.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I wonder if the Senator from Washington will yield for a question or two?

Mr. EVANS. I will be delighted to yield to my distinguished colleague.

Mr. HATFIELD. If I could direct the Senator's attention to page 3 of his proposal and in line 15 relating to the character of this continuing resolution that will be acceptable or appropriate under his provisions. Do I understand that beginning on line 18 there would have to be 13 separate references in a continuing resolution to 13 separate regular appropriations bills?

Mr. EVANS. That is the essence of sub 1 which is merely to assure that if there is a continuing resolution. Let me emphasize that, this bill does not even apply to any one of the traditional appropriation bills as they go through and are submitted to the President. It is only some share of them or all of them are whipped together in a continuing resolution that this provision merely requires that they be put in some place where they are easily understood and the titles themselves can then be divided.

Mr. HATFIELD. Mr. President, I understand what the Senator from Washington State is attempting to do. I can understand the logic behind it.

But let me tell you how this will totally cripple the Senate and the whole appropriations process. Let me remind you that the times we have been faced with a continuing resolution initially we get basically a short-term extension and that has only reference to the current programs and activities of the Congress or of the Government. So we cannot function thereby under this provision if and until we get the full continuing resolution with each of the separate bills. At that time and place, let me remind the Senate, it is only brief history that we have not acted upon 13 bills. We have not gotten to the point where they could even be referenced in a continuing resolution.

We get up to the deadline and we have a clean, short continuing resolution that merely is a time extension. That will no longer be possible. How are we going to finance, how are we going to fund the functions of Government beyond that October 1 when we are required to put that into a reference of 13 separate appropriation bills when they have not evolved at that point in time for reference?

So I think we ought to look at this because I think it is deeply flawed on this one point. We get to October 1 and we usually have a 5-day clean, short, brief statement which we call a continuing resolution and that says the current level and functions and programs of Government will continue until October 5, October 6, or whatever time we are merely extending the timeframe into which we can put together 13 bills or 10 or 11 or whatever into a continuing resolution.

I would urge the Senator to look carefully at this particular thing in light of recent history which would literally cripple the whole Congress and the whole Government as it would relate to being able to extend merely the time factor until we can put the 13 bills together in the continuing resolution to fund for that fiscal year.

Mr. EVANS. If I may respond to my colleague from Oregon, I think that is quite simple. The continuing appropriations even for a short period of time are continuing appropriations for purposes of Government which are readily recognized which have fallen within the various 13 functions of our separate appropriations bills for previous years and for the then current year, and it is quite easy, simply to merely keep them in those same confines and even for a short continuing resolution to readily be done in those 13 categories.

There are continuing appropriations of expenditures in the previous year which have been clearly identified in those 13 separate appropriations bills.

Mr. HATFIELD. The Senator is not correct on that point.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I read, in part, from article I, section 7, paragraph 2 of the Constitution of the United States as follows:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States;

Mr. President, that Constitution does not make any exceptions. It says "every bill" which shall have passed both Houses shall before it becomes law be presented to the President of the United States.

What we are doing here, if we adopt this amendment and if it were indeed to become law, we would be saying that a continuing resolution which is the equivalent of a bill, of course, which is passed by both Houses, would be broken down into its several parts. Several titles thereof would be separated out by some enrolling clerk and those separate bills or resolutions would be sent to the President severally.

The one continuing resolution which in reality passed both Houses would be thrown in the wastebasket or filed away somewhere by some filing clerk. However, that resolution which passed both Houses, according to the Constitution, should go to the President of the United States. Yet, if we adopt this amendment, we are going to say, "No, in spite of the Constitution, that resolution which passed both Houses will never get to the President's desk."

It is my intention, later this year, to try to bring as many of the regular appropriations bills before the Senate as possible. Not a single one of the 13 reached the President's desk last year. And I can understand the justification of those who want to see separate measures sent to the President. I do not consider this as a line-item veto.

Mr. JOHNSTON. Will the Senator yield?

Mr. BYRD. Yes; if I could just proceed for a minute.

I have some sympathy with the idea but not with this amendment.

In the first place, I do not think it ought to be tacked onto this particular resolution. That will just compound the problems of the conferees on the debt limit.

It seems to me this ought to be thought out carefully, ought to be taken through the committees, should have hearings, let us get some constitutional experts on it, and then make our decision. Let us not make it on this measure.

I do not think it will ever see the light of day when it reaches the conference. But surely Senators who would read the Constitution of the United States would not want to support this proposal.

Yes, I am glad to yield.

Mr. JOHNSTON. Mr. President, I thank the Senator for yielding.

I am glad he is on the floor, because he is a repository of the Senate rules and the Constitution of the United States. He has pointed out that this bill would require the waiver of the provisions of the Constitution, which is interesting.

Now, I have another little matter here that would be waived under the Constitution. On the first page, line 10, they say that the Secretary of the Senate, in the case of a joint resolution originating in the Senate, shall enroll the bill.

Now, I ask my dear friend from West Virginia, is it now possible to originate a joint continuing resolution making appropriations in the Senate?

Mr. BYRD. The Senator makes a good point.

This amendment also applies specifically to regular appropriation bills. Now we are not talking about an emergency appropriation bill or a deficiency appropriation bill. We are talking about regular appropriation bills. There are 13 of them. And, by custom, they start in the House of Representatives. They do not start in this Senate. They do not originate here. That is the point the Senator is making.

Mr. JOHNSTON. I am pointing out, of course, that the Constitution requires revenue measures to originate in the House and, therefore, this language about the Secretary of the Senate enrolling the bill is contrary to the Constitution.

So I ask my friends, particularly on that side of the aisle, to consider what this means. If you could waive the constitutional provision that the Senator has talked about and give light into this, it would mean that the Clerk of the House would enroll the bill. It would be he who would decide, for example, where all the amendments would go, if we put on a Boland amendment, or put on an—oh, gosh, there are so many legislative measures that we attach on appropriation bills as an amendment that do not fit in a regular appropriation bill. So you give it to the Clerk of the House over there to decide which of those bills those measures would go in.

And I want to ask the Senator one more question, and that is: Does he not agree that the point of order provided for on page 3 that says, "It shall not be in order to consider any joint resolution making continuing appropriations for a fiscal year unless each title of the joint resolution corresponds to an appropriation bill"—does he not agree that that would make it impossible for us to do as we do each year as we approach the October 1 deadline, realize that the functions of Government cannot continue, and put in a short term continuing resolution for 30 days, or something like that, that provides for the continuation of each function of Government at the levels then provided for? It would make that impossible, would it not? We could not even consider it. There would be a point of order against that, would it not?

Mr. BYRD. I think the Senator is probably correct. I have not had an opportunity to concentrate on that aspect, but I am sure that the Senator has carefully thought about it. I think he has a point that is certainly worth consideration, serious consideration, and I would trust his opinion.

But I wonder how many Senators have read this amendment?

Mr. STEVENS. Will the majority leader yield?

Mr. EVANS. Will the majority leader yield?

Mr. BYRD. Yes, I will be glad to yield to the distinguished Senator from Alaska and then to the Senator from Washington.

Mr. STEVENS. I have been wondering what happens to the supplemental appropriation bill? Is that a continuing resolution or is it a regular appropriation bill under the provision of this amendment?

Further, I would ask my good friend what would have happened to the crime bill that became part of the defense section of the continuing resolution. This bill had little, if anything, to do with the Department of Defense—and it really had more to do with the Department of the Treasury than it did Justice? Where would the crime bill go in one of these 13 bills for purposes of separating the continuing resolution for submission to the President, Defense, Justice, or Treasury?

I want to remind the Senate of the number of pieces of independent legislation that have been added to continuing resolutions in past years or have also been added to supplemental appropriations bills. How will these be treated?

Somehow or other, I say advisedly to the Senate, there appears to be a feeling that the Appropriations Committee members contrived to bring all of these bills together. What has happened, more than anything else, has been single issues—I remember the days of busing legislation or of abortion that have held up bill after bill after bill until we were forced to put them together in one bill. Where would abortion legislation go if it were added as a rider to the defense bill under this amendment?

Mr. HUMPHREY. Will the Senator yield?

Mr. STEVENS. I am asking my good friend a question. I do not have the floor.

This proposal is within the jurisdiction of the Rules Committee. I believe this is an amendment to the rules. There is a specific rule dealing with the appropriation bills.

Again, I share the frustration that many people feel that all these bills are forced together into a continuing resolution and we should avoid that whenever possible. But I ask my good friend: What will we do? We just passed the supplemental bill. I did not have 13 separate sections. Yet, this amendment says, notwithstanding any other provision, there ought to be a point of order against that bill unless it had 13 separate titles.

I really think the Senate needs to reconsider this proposition. I, for one, am very much opposed to this being passed without proper review by the Rules Committee. I say to my friend, I think this proposal needs Rules Committee review.

Mr. BYRD. Mr. President, I would join with the Senator.

Mr. EVANS. Will the Senator yield?

Mr. BYRD. Yes, I yield to the distinguished Senator from Washington.

Mr. EVANS. I thank the majority leader.

It is a little difficult to have all of the comments which have been made, but I think there is a suitable answer to each one of them.

First, on the question of the constitutionality, I would not attempt to match my experience and history on the Constitution with that of the majority leader.

But while he read accurately from one provision of the Constitution, it is also true that in Article I, section 5, of the Constitution, it states:

> Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Mr. President, several of the leading constitutional lawyers in the country whom we talked with in developing the original item veto constitutional amendment—the item veto proposal, which is much more complex than this and calls for much more independent action of an enrolling clerk than this, indicated that they thought that this had a very good likelihood of being declared constitutional under that provision of the Constitution that says that each House, or the Congress in total, has control over its own rules of procedure.

This goes by no means to the same length that an item veto would. It merely says that those titles which are readily understood and distinguishable should be separated when they are sent to a President.

Interestingly enough, it is my understanding, Mr. President, and I do not see the distinguished senior Senator from Florida on the floor—but it is my understanding in talking of what enrolling clerks do now, that the budget resolution which we passed and sent over to the House, the enrolling clerk spun off House Joint Resolution 324 and sent it back to us.

That did not pass the House. It was sent back to us by a spinoff from the enrolling clerk and if I am wrong I can be corrected but it is my understanding that that is what was done.

This would not call for any unusual action by an enrolling clerk or anyone else. The titles are simple. They are easy to understand. They are easy to categorize and I would say to my colleague from Alaska that, if this had been in effect and a choice had to be made as to where to put the crime bill, I am confident that it would have been put on the section of the continuing resolution that relates to justice and the judiciary so that when it was presented as a separate matter to the President, the functions would be there in their appropriate places.

Mr. STEVENS. Would the Senator yield on that point?

Mr. EVANS. Certainly, but I do not have the floor.

Mr. BYRD. I hope the Chair will protect my right to the floor.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. EVANS. If I might continue——

Mr. BYRD. Mr. President, I have no problem with the Senator from Washington yielding to the Senator from Alaska, so my rights to the floor are protected.

Mr. STEVENS. I appreciate that.

In regard to the comment the Senator has just made, you realize if this becomes the law, we are dealing with the rules of the Senate, which we waive from time to time. A majority of the Senate can waive a rule of the Senate.

We cannot waive this provision of law which becomes a part of the standing rules. As a matter of fact, if you look at the point of order section on page 3, "Notwithstanding any other provisions of law, the Standing Rules of the Senate, or the rules of the House of Representatives." Then it says it is not in order, "to consider any joint resolution making continuing appropriations—unless each title—corresponds to a regular appropriation bill."

There is no provision in this section for a supplemental. And there is no provision in this section for any general legislation that does not correspond to a committee that is a standing subcommittee of the Appropriations Committee.

There are 15 separate committees in addition to the Appropriation Committee that deal with the subjects that are listed on page 4.

My point is, we have many things that wind up in the appropriations process that are not listed in those 13.

Where is the enrolling clerk going to put these items that are new?

Mr. EVANS. The enrolling clerk would not have to do that. If the Senator from Alaska would read the next item on page 3, sub 2, starting on line 22, "any general provisions of the joint resolution are contained in the appropriate title or titles of the joint resolution—rather than in a separate title."

That would be up to the Senate and the House and the conference committee to make those decisions. They would make those decisions as to which one of the 13 titles they would choose to put what otherwise would be considered general provisions in.

Most of those general provisions do have a relationship to one or another of the separate appropriations bills and it would be rather simple to divide them in that respect and I would say to my colleague from Oregon, who talked about the difficulties of a short-term resolution, I still think that it could be readily handled under this language. But if that is the only problem, it would be simple and I would certainly be willing to modify the amendment to say something like: Any short-term appropriations to fund Government for less than 15 days shall be exempt from provisions of this amendment, if that—or something like it—would be necessary. I am not sure that it would be but if that is the only problem that is a simple one to fix.

Mr. STEVENS. Would my friend yield once more and then I shall not ask——

Mr. EVANS. I understand the majority leader still has the floor.

The PRESIDING OFFICER (Mr. WIRTH). Without objection.

Mr. STEVENS. Let me read to you from article I, section 7 of the Constitution, in part.

It says, "But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively. If any bill shall not be returned by the President within 10 days * * * after it shall have been presented to him, the same shall be a law * * *" and so forth.

The Senator is saying that this Senator would vote on one bill; a continuing resolution. And a clerk would separate this one bill down into 13 separate bills and present those bills to the President.

That is the presumption. I vote for the one bill that contains so many extraneous provisions—but many times I have refused to vote for bills that I supported parts of and opposed others. And many times I have voted for bills that I did not agree with entirely. In fact, just recently I voted against the trade bill because it contained so many different bills beyond that which came from the Finance Committee.

I share your frustration. But that frustration applies to legislation as well as appropriations bills and this is an unconstitutional way to try to correct the problem that both of us would like to correct. I tell you advisedly, in my judgment, this is not constitutional.

The Constitution requires that the names of persons voting for or against a bill presented to the President shall be recorded in the Journal. This amendment would not do that and I appeal to the Senate not to do this.

Mr. EVANS. If I may respond to my colleague from Alaska?

Mr. GRAMM. Would the Senator yield on that point?

Mr. EVANS. The majority leader has the floor.

The PRESIDING OFFICER. The majority leader has the floor and has yielded to the Senator from Washington.

Mr. GRAMM. Would you yield very briefly?

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. It is not an uncommon occurrence here for unanimous consent to be asked and bills to be voted on en bloc. Those bills then go to the President, the President either signs them or vetoes them, in which case no individual Member is recorded on each one of those bills.

So, not every day, but it is not a rare occurrence, that we vote on bills en bloc, in which case no one has raised a constitutional question and the constitutional provision referred to has nothing to do with this situation.

Mr. EVANS. I am delighted with that, in fact, I was going to mention that point and also to remind my colleagues that not one word not one jot, not one title would be changed in the act which had been passed by each House of this Congress after such conference committee as might be necessary.

All that is done is for us to use our internal procedures to divide them into 13 parts to present to the President.

He may or may not return several of those. This Senator's vote would not have been recorded on the bills that the President signs because his vote would have been recorded on a bill, a continuing resolution.

This is not a constitutional amendment. Every bill that is presented to the President must be recorded in the Journal and on it must be recorded the names of those people who voted for or against the bill.

You cannot have an amendment which will divide a bill that I voted on into 13 separate bills and have it be presumed that I would have voted for all 13.

I suppose an argument could be made that it is unconstitutional. I hear that argument made on the floor all the time by those opposed to a measure; that this measure is unconstitutional.

Fortunately, there are some other elements of the Constitution which provide for separation of powers between the several branches of Government. Our job is to pass laws. Sure, we try to have them constitutional when we pass them but we are not the ultimate judge of that.

It is the Supreme Court across the street that will make that decision. We do what we think we ought to do and I believe that this will withstand the constitutional test.

I believe that this will withstand the constitutional test.

I might just add finally before returning the floor to the majority leader, that there has been a lot of talk here about all these extraneous items which are in the appropriations bills, the crime bill and all the other things, which many of us from time to time like to have in an appropriations bill. I am sure my colleague from Oregon, the former chairman, and the current chairman, Senator STENNIS, of Mississippi, which there were a way to keep separate legislation off appropriations bills. It is not in order to offer legislation to an appropriations bill. We just waive that from time to time in order to get legislation on an appropriations bill.

I think this might have the effect of slowing some of that down and might be of some considerable benefit to the Appropriations Committee itself.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, let us think a little further about what we are doing. I am reading from the amendment, page 2, line 6.

A joint resolution required to be enrolled pursuant to paragraph (1).

(A) shall be enrolled without substantive revision.

Who is going to make the judgment as to whether or not a separate resolution has been enrolled "without substantive revision?" It is going to be done by the enrolling clerk, according to the amendment.

Let me also point out to the Senate, and I would be happy to have anyone answer this question, any Senator, suppose a continuing resolution is passed by both Houses. I have already pointed out that that resolution passed by both Houses will not go to the President in accordance with the requirements of the Constitution. You can talk about rules all you want, and I may give some attention to the rules in a few minutes. Right now, though, I do not think we need to call attention to the rules of the Senate. I shall call upon a greater authority than the rules of the Senate. The Constitution of the United States is the organic instrument of this Republic and no rules of any legislative body are going to have preeminence over this Constitution.

Yes, it also says that both Houses shall determine the rules of their own procedures and all of that. But it does not say that, in determining the rules of procedure, either body may circumvent the Constitution of the United States.

This Constitution is very clear in what I read earlier with respect to the necessity for every bill to pass both Houses before it goes to the President of the United States. I do not know how anyone can get around that.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States.

Can anyone tell me how a continuing resolution, which is passed by both Houses, according to this amendment by the distinguished Senator from Washington, is ever going to become law? How will it ever become law without its being presented to the President of the United States for his signature? There is no way that it can become law. Yet, according to this amendment, such a continuing resolution would never go to the President. It would only go to an enrolling clerk and there it would stay.

Well, let us leave that point for a moment.

The continuing resolution would go to some enrolling clerk, who would break that continuing resolution into its several parts, and those several parts are to be enrolled and sent to the President of the United States.

Not one of them would have passed either House, as such. What number would be put on each of them? Suppose there are 13 separate appropriation bills involved in that one continuing resolution. That continuing resolution bears a House number, House Joint Resolution 24 or 244, or whatever. You break that continuing resolution down into 13 separate resolutions and send all of them down. What numbers will be given to them?

Well, let us call it a bill for the moment.

That is what the Constitution speaks of, a bill, but it applies to a joint resolution, just as well.

Let us say it is H.R. 348. That is Andy Gump's old license number. How many Senators can remember Andy Gump?

All right, H.R. 348. We break it down into 13 parts. How will they be numbered? Will they be numbered H.R. 348-1, H.R. 348-2, H.R. 348-3, H.R. 348-A, H.R. 348-B, H.R. 348-C? Remember, too, that not one of those bills carrying those numbers, will have passed either body.

I hope that Senators, especially Senators who have had some opportunity to study constitutional law, will think seriously about this question. I hope they will have their answers when they go back to their constituencies and they are asked by some college professor who is a teacher of constitutional law, or by a lawyer, or by a State legislator, "Senator, how do you explain your vote on this matter in the light of this Constitution? How do you explain it?"

I would expect that, the next time the Senators get up before a civic organization, someone in that civic organization may say, "Senator, I have always had great respect for your knowledge of the law. You passing the bar exam a good many years ago. You have even appeared before the Supreme Court of the United States. But tell me, Senator, have you read paragraph 2, section 7, article I of the Constitution of the United States? How do you square that with your vote in support of the Evans amendment?"

Think about it. Stay with the Constitution and vote against this amendment.

Mr. HATFIELD. Will the Senator yield for a comment on the point he is making without losing his right on the floor?

Mr. BYRD. Yes.

Mr. HATFIELD. Mr. President, let me just give a little bit of history of the last few weeks. The clerks in the House of Representatives enrolled a supplemental appropriations bill we passed a few weeks ago, a far simpler vehicle than what we get into when we talk about a continuing resolution. It was sent over to the Senate. The White House made a communication to the Appropriations Committee saying, "We thought we had a provision or two on the foreign operations part of that supplemental and it is not in this supplemental you have up for approval.

Lo and behold, upon review of the situation, the clerks in the House had omitted two paragraphs in the supplemental appropriations bill, quite by mistake.

But of the work; the cut and paste that goes into this whole process, I am sure none of us are fully aware of the complexity of that. The clerks, by mistake, left out two paragraphs of a supplemental appropriations and we had to pass a concurrent resolution to correct that situation in order to validate what the conferees had agreed to, because of a clerical error.

Now you get into the matter of a CR with all of its complexities.

As the majority leader has indicated, this becomes a monumental task that gets down to the simple point of how do we validate the appropriations process under the Constitution.

I just think we ought to look at not only the legal concerns—and I am not qualified to speak for the constitutional legal points—and certainly I can share this experience of the mechanics of a clerk having this kind of authority and responsibility when under the current clerical role that clerks play

we have these errors that happen, and not too infrequently, either.

Mr. FORD. Mr. President, will the distinguished Senator from Oregon yield to me without the majority leader losing his right to the floor?

Mr. HATFIELD. I do not have the floor.

Mr. FORD. Without losing his right to the floor, is that all right with the Senator?

Mr. BYRD. That is all right with me. I have said enough and I will sit down. I hope we can vote soon.

Mr. FORD. Will the distinguished Senator yield?

Mr. HATFIELD. Yes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

Mr. FORD. I ask the distinguished Senator from Oregon—and we are talking about procedure now—are we giving any more authority to the Clerk of the House than we have normally?

Mr. HATFIELD. We are giving far more authority to the enrolling clerk because of the fact the enrolling clerk will have to place these, what we call general provisions, general amendments and administrative provisions into the proper separate vehicle that goes down to the White House. At the present time the enrolling clerk has very specific instructions. It comes on the basis of each section, each chapter. But then under the general section—because these are all broken up—the enrolling clerk will have the additional reponsibility to select the vehicle in which the enrollment will occur to send to the White House.

Mr. FORD. Would I be correct then to say we are putting entirely too much responsibility on the Clerk of the House or the Secretary of the Senate because then those who would want a little piece of money instead of going into section 1, would want it over in the Defense Department section or something? Would not people be lined up in front of the clerk's door all the way down Pennsylvania Avenue trying to get the clerk to put this in this area and be changing it around? It just seems to me it would be an unending thing; they cut and paste, somebody else says change it, cut and paste, put it someplace else. The mechanics are horrible under this amendment.

Mr. HATFIELD. The Senator has put his finger on another point and that is we get continuing signals from the White House on each part of the appropriation bill, continuing resolution, or a single bill. We know pretty well what the White House is going to do—veto, support, and sign. Can you imagine what happens under a continuing resolution when there are sections of that which the White House would obviously say we do not like and everybody is saying keep the general provision off of that vehicle and put it on the defense bill because that is the one they will sign for sure or put it on some other because that is the one they will sign for sure? It leads to all kinds of problems and possibilities of things we do not want to discuss.

Mr. FORD. I thank the Senator. We have heard a marvelous discussion of the constitutional problem we have. I am not a lawyer and I listened very intently to the discussion. I read the Constitution with amazement and interest. But I think this amendment has gone beyond the constitutional question; it has put into the hands of the Clerk the opportunity to put anything in any section that he or she may want. I can see that the strongest individual in either the House or the Senate will be the nonelected individual. They would have the ability to put provisions in one section of the bill or the other. I am not sure the distinguished Senator from Washington understands what this amendment is doing as I read it and as substantiated by the distinguished ranking member of the Appropriations Committee. I hope my colleagues, under the circumstances, would vote to defeat this amendment.

Mr. NICKLES addressed the Chair.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will be very brief. I think the debate that we have had the last hour or so on this amendment shows there is a great deal of frustration. A lot of us believe that the appropriations process and budget process is broke. It is not working. Last year we had one appropriation bill, a CR, $576 billion. It had a lot of things we needed. It had a lot of things we did not need. It had a lot of items that were germane. It had a lot of items that were not germane. The Senator from Alaska said it was not just the appropriations process that abuses the normal process. The Constitution, as pointed out by the majority leader, says every bill shall have been passed by the House and Senate and signed by the President. Every bill. I wonder if they envisioned bills that would be $576 billion large. I wonder if they envisioned a trade bill that had so many miscellaneous items and entire bills attached, a trade bill reported from eight or nine different authorizing committees, had plant-closing legislation, had repeal of the windfall-profits tax, over a thousand pages large. The process that we have today is broke.

I happen to concur with many of the things my friend from Alaska said. I think this should apply in general to other pieces of legislation, not just appropriations bills. I think breaking it down and giving the President the chance to sign or veto 13 different appropriations bills as they are, as they are recorded, as they come out of each individual subcommittee, is not an abuse of power. I think it would restore some of the checks and balances that we desperately need. Right now Congress is holding a stacked deck. It is holding all the cards. It puts all the appropriations bills together and I think abuses the process. We need to fix it. The majority leader may be right. Maybe this is not the best way. Maybe it does not meet every fine point of constitutional discretion. I am not sure. But we need to fix this system. It is broke. The system is not working. It is not working when we have a 1,000 page trade bill. I know the Senator from Missouri worked hard on that trade bill. That trade bill was too large. It had too many items that were not germane, too many items that the President should have a chance to sign or veto individually. And the same thing for the crime bill that we passed. It was over a thousand pages. And again and again Congress has resorted to that trainload mentality—if there is a train moving through, let us tack on whatever—amendments, bills. Not amendments. We call them amendments but they are entire, separate, complete bills. I think the President should have the opportunity to sign or veto and then if we disagree we can override.

Mr. BYRD. Mr. President, I wonder if we could vote in 5 minutes.

Mr. EVANS. I would be delighted to vote, if I could just——

Mr. BYRD. Or vote now.

Mr. EVANS. No. If I could just have time enough——

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator speak for 5 minutes and the Senate then vote.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HUMPHREY. The opponents have been speaking for an hour and they want to limit us to 5 minutes. That is not fair.

The PRESIDING OFFICER. Objection is heard. The Chair recognizes the Senator from Washington.

Mr. EVANS. I thank the Chair. I fear that this Chamber has been flooded with red herrings this afternoon. We have heard about all of the problems and difficulties of the current system and what might happen under this rather simple proposal. Frankly, I am astounded. I am amazed to hear my colleague from Oregon say that the Enrolling Clerk made a big error and it had to be corrected. That can happen no matter what our rules are or how we choose to put our bills together.

I suggest, Mr. President, that things are broke, as the Senator from Oklahoma has said. And one of the reasons

they are broke is because we have engaged in this penchant of putting everything into one huge pot. They are not any more really continuing resolutions. It is more accurate to say that they are omnibus appropriations bills. Last year it is my understanding—and I do not serve on the Appropriations Committee, but I follow it pretty carefully—we passed most of the appropriations bills separately in the Senate, they passed virtually all of them in the House, and the conference committees joined together and reached agreement in each of their separate categories and then the decision was made to wrap all of those together along with the ones which had not been finished. It was done deliberately to make than an omnibus appropriations bill. I cannot think of any stronger argument for reseparating them than the deliberateness of that concept, that suddenly now we should have an omnibus appropriation which for all practical purposes eliminates the constitutional veto authority of a President.

Just consider: Almost $600 billion and a good amount of other legislation hooked aboard, facing the President on the eve of a new fiscal year. He cannot veto it. There is no way the President can use his constitutional veto under those circumstances.

The question has been brought up about the extraordinary power of an enrolling clerk. Well, if this amendment is adopted, as I hope it will be, and if it becomes law, as I hope it will be, then it is up to the Appropriations Committees on both sides to be careful enough to do the job well; to identify clearly what each title is; if necessary, to give a number to each title and say, "When this bill is presented to the President, this will be the number for the military construction proposal." That is easy enough to do.

You can draft what you want in those bills as they are passed by the Senate and by the House clearly and carefully enough so that the enrolling clerk would have no task further than to put them into 13 parts. I think that is precisely what we ought to be doing.

It is bad to give unusual power to someone not elected, and I fear that is what we are doing now by creating such an extraordinarily large and complex bill that we cannot hope to follow all its elements. We do make mistakes. The very best of people make mistakes. But we tend to make more mistakes as we get something more and more complex.

If we could separately take each one of these items, each one of the appropriations bills, as we once did, adequately go through the conference committee on a military construction bill, on the legislative appropriations bill—for Heaven's sakes, on the District of Columbia bill, which certainly should not be too difficult—and on each of the other bills as they come along. Certainly, there are two or three which are of extraordinary difficulty and complexity. I understand full well that the foreign operations bill, the defense authorization bill, and the Health and Human Services side of the bill are going to be complex. But far better to deal with them separately and independently than wrapping them all together in a highly complex continuing resolution.

Mr. President, this is not a complex bill. I do not believe it is an unconstitutional bill. I believe it is worth trying as a small step back toward fiscal sanity. The Judges across the street will make the determination as to whether it is constitutional or unconstitutional, as they often do. But it is worth trying. It is worth trying, if even for only 1 year we end up doing what we once did.

All this is restoring the balance to take us back to the traditions we had in 13 separate bills. I think it would be refreshing and worthwhile. I would hope that each of those 13 bills would be brought to the floor of the Senate and dealt with separately, so that we could analyze each one in its own framework, rather than facing, as we have this last year, a huge and enormous continuing resolution which no Member of the Senate outside of the Appropriations Committee—and I suspect many inside the Appropriations Committee—knew from cover to cover.

We may not know bills from cover to cover if we deal with them separately, but at least we have a chance, and that is all we are asking for in the Senate—a chance to analyze and understand what we are doing, so that we can represent our people and this country better. This is a small step in that direction. It is not overly complex, and I hope it will be adopted by this body and made part of our procedure for just the next 2 years.

This has a sunset clause in it. It is a low-risk trial to see if we can do something better than we are doing today.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. HUMPHREY addressed the chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I assure my colleagues that I will be brief.

Mr. BYRD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. HUMPHREY. I yield.

Mr. BYRD. Mr. President, the Senator wanted to speak earlier and should have an opportunity to speak, and he has been recognized. I wonder if we could vote after the Senator from New Hampshire completes his statement.

I ask unanimous consent that the Senator from New Hampshire speak for 5 minutes and that then the Senate vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

The Senator from New Hampshire is recognized.

Mr. BYRD. I thank the Senator.

Mr. HUMPHREY. Mr. President, it is astounding how much obfuscation arises whenever the Senate is on the verge of doing something to enforce fiscal responsibility.

The measure which the Senator from Washington has presented to us is eminently sound and badly needed. Let us recall the context in which it is offered.

Last year, we had one appropriations bill, 576 billion dollars' worth of one bill, the largest appropriations bill in history. It was placed on the President's doorstep at the 11th hour, the 59th minute. He had no practical choice but to sign it, pork and all. That was an act of irresponsibility and malfeasance on the part of Congress.

This measure would enforce some discipline to prevent a recurrence of such an abomination.

A number of objections have been raised. Some have raised the constitutional issue in the context of what defines a bill. I wish to quote from a study by Judith Best, distinguished teaching professor of political science at the University of New York. She says, in part—and I use her words because they are better than mine would be at this moment:

> If Congress may define as a bill a package of distinct programs and unrelated items, it can define distinct programs and unrelated items to be separate bills. Either Congress has the right to define a bill or it does not.

With respect to the objection raised by the ranking member of the Appropriations Committee, in which he alleges that this provision would give new and unwarranted powers of discretion to the enrolling clerks, Senators should read the language of the amendment. It says on page 3, in the provision "In General":

> Notwithstanding any other provision of law, the Standing Rules of the Senate, or the Rules of the House of Representatives—
>
> (1) it shall not be in order to consider any joint resolution making continuing appropriations for a fiscal year unless each title of the joint resolution corresponds to a regular appropriation bill,
>
> (2) any general provisions of the joint resolution are contained in the appropriate title or titles of the joint resolution * * *.

In other words, the Appropriations Committee has to decide, before it discharges the bill, where those general appropriations go. It cannot have a separate section, an addendum at the end of the bill, entitled "General Provisions." It must incorporate general

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provisions into one of the titles of the bill.

Mr. President, this is an excellent proposal. It is not a line item veto. I wish it were. It is an excellent proposal that will be salutary and will enforce discipline in this place, where there is virtually none, it would seem, as evidenced by the horrible record we have with respect to continuing resolutions and the abomination that in one resolution we passed last year in such a way that we left the President no choice but to sign the whole conglomeration worth $576 billion.

Mr. BYRD. Mr. President, the Senator has 30 seconds remaining. Will he yield it to me?

Mr. HUMPHREY. Yes.

Mr. BYRD. Mr. President, I am told by the managers that there are only three more amendments, and I have good reason to believe that each of them will not take much time as we take on this. So if we can stay a little longer, we can finish action on this joint resolution this evening.

I thank the Senator, and I yield the floor.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield back his remaining time?

Mr. HUMPHREY. I yield back the time.

The PRESIDING OFFICER. The time now expires. The vote now occurs on the amendment offered by the Senator from Washington.

Mr. BUMPERS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DIXON, Mr. President, Senator LEAHY is absent. Were he present, he would vote "no." In view of that, Mr. President, I ask that my vote be paired. I would vote "aye."

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Vermont [Mr. LEAHY], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

I also announce that the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Alabama [Mr. SHELBY], are absent because of illness in family.

Mr. DOLE. I announce that the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Connecticut [Mr. WEICKER], are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. MCCAIN] would vote "yea."

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 48, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—41

Armstrong	Gramm	Nickles
Bentsen	Grassley	Pressler
Bond	Hatch	Proxmire
Boren	Hecht	Quayle
Boschwitz	Heinz	Roth
Cohen	Helms	Rudman
Danforth	Humphrey	Specter
Daschle	Karnes	Symms
Dole	Kassebaum	Thurmond
Domenici	Kasten	Trible
Durenberger	Lugar	Wallop
Evans	McClure	Warner
Exon	McConnell	Wilson
Garn	Murkowski	

NAYS—48

Baucus	Glenn	Mikulski
Bradley	Gore	Mitchell
Breaux	Graham	Nunn
Bumpers	Harkin	Packwood
Burdick	Hatfield	Pell
Byrd	Heflin	Pryor
Chafee	Hollings	Reid
Chiles	Inouye	Riegle
Cochran	Johnston	Rockefeller
Conrad	Kennedy	Sanford
Cranston	Kerry	Sarbanes
D'Amato	Lautenberg	Sasser
DeConcini	Levin	Stafford
Dodd	Matsunaga	Stennis
Ford	Melcher	Stevens
Fowler	Metzenbaum	Wirth

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Dixon, for.

NOT VOTING—10

Adams	McCain	Simpson
Biden	Moynihan	Weicker
Bingaman	Shelby	
Leahy	Simon	

So the amendment (No. 650) was rejected.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from North Dakota.

AMENDMENT NO. 651

(Purpose: To reduce spending for fiscal year 1988 by 2 percent)

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 651.

Mr. CONRAD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

TITLE—2 PERCENT REDUCTION OF SPENDING FOR FISCAL YEAR 1988

SEC. 01. 2 PERCENT REDUCTION OF APPROPRIATE LEVELS.

Pursuant to section 304 of the Congressional Budget and Impoundment Act of 1974, section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, 100th Congress, 1st Session) is amended by adding at the end thereof the following new subsection:

"(t)(1) Notwithstanding any other provision of law but subject to the provisions of paragraphs (2), (3), and (4)—

"(A) for purposes of determining, in accordance with section 311(a) of the Congressional Budget Act of 1974, whether the maximum deficit amount for a fiscal year has been exceeded;

"(B) for purposes of other points of order under section 311 of the Congressional Budget and Impoundment Control Act of 1974;

"(C) for purposes of reconciliation under section 310 of the Congressional Budget and Impoundment Control Act of 1974; or

"(D) for purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974,

each appropriate level of total new budget authority for each major functional category and aggregate set forth for fiscal year 1988 in the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, 100th Congress, 1st Session) shall be deemed to be reduced by 2 percent, and outlay levels shall be deemed to be reduced by appropriate amounts corresponding to a 2 percent cut in budget authority.

"(2) The reduction imposed by paragraph (1) and paragraph (3) shall not apply to the major functional categories for Social Security (650) and that portion of budget authority and outlays which are under any functional category and which are attributable to the enforcement activities of the Internal Revenue Service, and shall apply only to that portion Medicare (570) attributable to general records.

"(3) In addition to other changes specified in this subsection, the committees of the House of Representatives and the Senate that have jurisdiction over budget authority and outlays (other than budget authority and outlays within functional categories for Social Security (650) or under any function categories which are attributable to enforcement activities or the Internal Revenue Service) shall report changes in laws within their jurisdiction that provide budget authority and outlays (other than budget authority and outlays within functional category for Social Security (650) and the functional categories which are attributable to enforcement activities or the Internal Revenue Service) sufficient to reduce budget authority or, where applicable, outlays (other than budget authority and outlays within functional category for Social Security (650) and the functional categories which are attributable to enforcement activities or the Internal Revenue Service) by two percent.

"(4) The Chairmen of the Committees on the Budget of the House of Representatives and the Senate shall file with their respective Houses appropriately revised alloca-

tions under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in a concurrent resolution on the budget within the meaning of title III of such Act, and the appropriate committees of such Houses shall report revised allocations, pursuant to section 302(b) of such Act for fiscal year 1988 to carry out this subsection."

Mr. CONRAD. May I have order?

The PRESIDING OFFICER. The Senate will be in order. The Senate is not in order. The Senator will please suspend until the Senate is in order.

The Senator will please begin.

The Senator from North Dakota.

Mr. CONRAD. Mr. President, this amendment seeks to reduce budget authority and, where appropriate, outlays 2 percent across the board with certain limited exceptions. Those exceptions are as follows.

No. 1, Social Security; No. 2, the functions of the Special Revenue Service; and No. 3, the 2-percent reduction applies to the general revenue portion of Medicare.

Mr. President, let me just briefly read from the amendment itself.

For the Impoundment Control Act of 1974, each appropriate level of total new budget authority for each major functional category and aggregate set forth for fiscal year 1988 in the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, 100th Congress, 1st Session) shall be deemed to be reduced by 2 percent, and outlay levels shall be deemed to be reduced by appropriate amounts corresponding to a 2 percent cut in budget authority.

Mr. President, since we adopted our budget resolution the underlying assumptions on revenue have changed dramatically.

When we passed the budget resolution we thought we would have a deficit in fiscal 1988 of $134 billion.

Mr. DOMENICI. May we have order?

The PRESIDING OFFICER. Those Senators desiring conversation will please retire to the cloakroom. The Senate will please be in order.

The Senator from North Dakota.

Mr. CONRAD. I thank the Chair and I thank the Senator from New Mexico.

As I was saying, when we passed the budget resolution we thought we were providing a deficit of $134 billion for fiscal 1988. Now we know with the new estimate by CBO that that estimate is $152 billion.

In addition, we know that over the next 5 years the deficit is increased by $238 billion from the previous projections. That is the reason I am offering this amendment. Very simply, it does the following:

First, it saves $10.4 billion over the previous budget resolution.

Second, it reduces the ending deficit from $151.1 billion to $140.7 billion; and

Third, it improves the balance of the deficit reduction package that we passed.

The deficit reduction package that we passed had $19 billion in revenue; $8 billion in cuts. The additional $10.4 billion in cuts provides some greater balance between revenues on the one hand and cuts on the other.

The next point I want to make is that this is not a draconian cut.

Mr. JOHNSTON. Would the Senator yield for a question? I hate to interrupt his train of thought but would he mind yielding?

Mr. CONRAD. I would be happy to yield.

Mr. JOHNSTON. I am advised that this section violates section 306 of the Budget Act because it involves matters within the jurisdiction of the Budget Committee which have not been referred to that committee.

Since that point of order does lie, I wonder if the Senator wants to fully discuss it before that point of order is made?

Mr. CONRAD. Yes. I would like to complete the case. Let me advise the Senator that I am very near the end. I have exercised restraint, noticing the lateness of the hour and the eagerness of Senators to leave. But I would just like to complete the case and then I will move to waive the Budget Act provisions.

Let me just pick up where I left off by indicating this is not some draconian cut. In fiscal 1987 we had outlays of $1.008 trillion; in fiscal 1988 the conference agreed to $1.069 trillion.

We cut that back to $1.058 trillion in outlays. In other words, we are going up in outlays from last year by $50 billion.

Let me also indicate that in an area that is as sensitive as education, this 2-percent reduction still leaves you $900 million above the CBO baseline.

There is one thing that I would like to advise Senators, because I circulated to all Senators what the effect of these cuts would be in each functional area.

The conference left Medicare at $81.6 billion. The sheet distributed indicated the cuts would take us back to $79.8 billion. Now that we are just applying the reduction to the general revenue portion of revenue that number is now $81 billion.

Finally, let me indicate that in each of the major functional areas, defense is reduced $3.4 billion, nondefense discretionary is reduced $2 billion, entitlements are reduced $4.6 billion, net interest is reduced $400 million, for a total savings of $10.4 billion, according to CBO.

I urge adoption of the amendment. I am prepared to move to waive.

The PRESIDING OFFICER. Does the Senator move to waive or does the Senator yield the floor at this time?

Mr. CONRAD. Pursuant to section 904(c) of the Congressional Budget Act of 1974, I move that section 306 of that act be waived with respect to the consideration of the Conrad amendment as offered.

The PRESIDING OFFICER. Is there debate on the motion?

Mr. JOHNSTON. Mr. President, I make a point of order under section 306 of the Budget Act.

The PRESIDING OFFICER. The point of order is made and the Chair will say that the Senator from North Dakota has moved to waive the provisions of the Budget Act. That motion is debatable. It must be disposed of before any other matters can be taken up. So the debate, if there is any, is on the motion of the Senator from North Dakota.

Is there debate on the motion?

Mr. BOSCHWITZ. Mr. President, I rise to support the amendment and hope that the Budget Act will be waived. I subscribe to the amendment because I believe that the only way we are going to control expenditures is by an across-the-board approach. In my years on the Budget Committee as we have debated various aspects of it, we approached each element, each function and subfunction learning that they are all very appealing. In the end, unless you take an approach that is almost somewhat mindless in the sense that it is across the board, you just do not make any progress at all.

So I do indeed support the idea that we go across the board. The approach of the Senator from North Dakota would not mean that people would receive less than the year before. They would receive as much as they did the year before. They simply in some instances would not receive more or the increase would be diminished.

I applaud the idea that the across-the-board approach on the budget is necessary if we are going to control expenditures. I hope the Senate will support the Senator from North Dakota in his attempt to waive the Budget Act at this time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I thank the Senator from Minnesota, who is cosponsoring this amendment. I know there are those who think that an across-the-board cut is not the preferable way to proceed. I agree with that.

But we have spent months carving up the pie. Now the question is whether we reduce the size of the pie somewhat. In this amendment we have given maximum flexibility to the committees to determine how these cuts might be made in light of the numbers

from CBO. This seems to be the only way that we can achieve further budget deficit reduction in fiscal 1988. For that reason I urge my colleagues to support it. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. Mr. President, I assume the distinguished Senator from Louisiana who made the point of order obviously joins me in urging that we not waive in this instance. Am I correct?

Mr. JOHNSTON. Mr. President, the Senator is correct. There is a long argument to be made about this. I support the thrust of the amendment, but, believe me, this will not work. Rather than make a long speech to tell you why it will not work, it is just very plain that it violates the Budget Act and we should not give the 60 votes to waive the Budget Act.

I think the Senator will agree with me that it applies only to budget authority. If you could get around it so easily, it is like the proverbial hole in the line that is so wide you can drive a Mack truck through it.

Rather than go into the long argument as to why it will not work, I think it is better, as the Senator suggests, not to waive the Budget Act.

Mr. DOMENICI. I would like to say that it seems to me that the Senator who offered this amendment is most diligent in trying to restrain the budget. I have complimented him in the committee and here on the floor. But Senators should know we just passed the budget resolution. We went to conference. Whether you like the budget resolution or not, within 3 weeks after you have adopted a budget resolution when these kinds of amendments to reduce the budget resolution would have been in order, if you come along after the budget resolution and cut just the Senate's portion we say now we are going to have a brand new budget resolution, in essence, if this amendment is adopted.

In addition, since you are only applying it on the budget authority side you have nothing but confusion. So if ever the 60-vote rationale was very valid and you should use it—obviously, it is there to be waived—this is one where you should not waive it. Obviously, you are changing the budget resolution within 3 weeks in a manner that will not work. If you were going to cut it in the budget, cut it in the budget resolution that just passed. Do not deem it a month later to be changed, which essentially is what we are doing.

I thank the Senator from Louisiana for making the point of order and I hope we will not waive the Budget Act in this instance.

The PRESIDING OFFICER. The question is on waiving the budget resolution provisions. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Vermont [Mr. LEAHY], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Alabama [Mr. SHELBY] are absent because of illness in family.

Mr. DOLE. I announce that the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 53, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—36

Armstrong	Dixon	McClure
Baucus	Exon	McConnell
Bond	Fowler	Melcher
Boren	Gramm	Nickles
Boschwitz	Grassley	Pressler
Burdick	Harkin	Proxmire
Byrd	Hatch	Pryor
Chiles	Heflin	Roth
Conrad	Humphrey	Sanford
Danforth	Karnes	Symms
Daschle	Kasten	Wilson
DeConcini	Levin	Wirth

NAYS—53

Bentsen	Hatfield	Packwood
Bradley	Hecht	Pell
Breaux	Heinz	Quayle
Chafee	Helms	Reid
Cochran	Hollings	Riegle
Cohen	Inouye	Rockefeller
Cranston	Johnston	Rudman
D'Amato	Kassebaum	Sarbanes
Dodd	Kennedy	Sasser
Dole	Kerry	Specter
Domenici	Lautenberg	Stafford
Durenberger	Lugar	Stennis
Evans	Matsunaga	Stevens
Ford	Metzenbaum	Thurmond
Garn	Mikulski	Trible
Glenn	Mitchell	Wallop
Gore	Murkowski	Warner
Graham	Nunn	

NOT VOTING—11

Adams	Leahy	Simon
Biden	McCain	Simpson
Bingaman	Moynihan	Weicker
Bumpers	Shelby	

The PRESIDING OFFICER. On this vote, the yeas are 36, the nays are 53. The motion is not agreed to and the amendment of the Senator from North Dakota which proposes to change matter within the jurisdiction of the Budget Committee has been offered to a joint resolution not reported by the Budget Committee and in violation of section 306 of the Budget Act and, therefore, the amendment must fall.

AMENDMENT NO. 652

(Purpose: To repeal the pay raises granted to Members of Congress and certain officers and employees of the Federal Government)

Mr. HUMPHREY. Mr. President, on behalf of Senators BURDICK, HELMS, PROXMIRE, DECONCINI, MCCAIN, and ROTH, and on my own behalf I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) for himself, Mr. BURDICK, Mr. HELMS, Mr. PROXMIRE, Mr. DECONCINI, Mr. MCCAIN, and Mr. ROTH, proposes an amendment numbered 652.

At the appropriate place, add the following new section:

SEC. . (a) The rates of pay for all offices and positions which were increased pursuant to the recommendations of the President relating to rates of pay for offices and positions within the purview of section 225(f) of the Federal Salary Act of 1967, as included (pursuant to section 225(h) of such Act) in the budget transmitted to Congress for the fiscal year ending on September 30, 1988, are reduced to the rate of pay for each such office and position which was in effect before such recommendations became effective.

(b) The provisions of subsection (a) shall become effective on the first day of the first applicable pay period which begins on or after the date of enactment of this Act.

(c) The provisions of subsection (a) shall not apply to any judge, justice, or magistrate serving in the Judiciary Branch of the Federal Government.

Mr. HUMPHREY. Mr. President, I am aware that Senators have family obligations. I am, myself, concerned about making good on a promise I made my little boy that I would be at home when he wakes up tomorrow. I need to catch an airplane like other people. But public business—I hope I do not sound to pious—public business comes first, and this is our best opportunity to offer this amendment, and that is why I am offering it.

I do not wish to be a nuisance. But, Mr. President, let me say this, and I will keep it brief because the case has been well argued. There is no need to reargue the case. Senators are acquainted with the situation.

Here is why I am once again offering this amendment, Mr. President. Senators know that the Senate for its part on several occasions voted against the pay raise which ultimately went into effect recently, several months ago, which accounted for a $12,100 increase in the salary of Members of Congress which is a 15.6-percent increase.

The Senate voted under the procedure to decline the pay raise. Under the new law, both Houses must decline the pay raise. The House for its part claimed to decline the pay raise, but

the leadership in the shabbiest of scams scheduled the vote the day following the deadline for such a vote. In the debate on the House floor at the time, members of both parties analyzed that the vote was utterly without meaning, utterly without effect, because it was occurring 1 day too late; it was occurring after the deadline.

I have to say very frankly that the House perpetrated a grievous scam in which the people of the United States suffered. A great breach of faith with the people of the United States was opened up, which breach remains open and will until something is done to close it. That is why I offer this amendment.

The amendment returns the rate of pay of Members of Congress and certain executive officers, but not the judiciary—may I point out, they are exempted in the judiciary, including judges, justices, and magistrates—and restores the rate of pay for Members of Congress and certain members of the executive to the rate which existed prior to the passage of the automatic increase in pay which occurred recently.

We are asking Senators only to do what they have done before, and that is to vote down this pay raise—in this case to repeal it—in hopes that by attaching it to this bill the Representatives of the House will be forced at last to act in a timely fashion one way or the other and address this important matter.

Mr. President, I believe the Senator from North Dakota wishes to speak, and for that matter I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor and the Chair will recognize the Senator from North Dakota.

Mr. BURDICK. Mr. President, I rise today in support of ongoing efforts to rectify the situation caused by the $12,000 pay raise. As my colleagues may recall, I have taken every opportunity to express my strong opposition to this unwarranted and backhanded raise. We have had 4 months' increased pay.

For each Senator and Representative, the raise has accounted for an increase of more than $1,000 in gross monthly pay and nearly $500 in monthly take-home pay. Because I am committed to deficit reduction, I have returned this amount to the U.S. Treasury each month, totaling just under $2,000.

I was against this raise when it was approved. I remain opposed to it. I will vote for every measure which crosses this floor to repeal this raise, and will return every penny to the U.S. Treasury, where it belongs.

If every Senator and every Representative did the same, we would reduce the deficit by more than a quarter of a million dollars every month. That's more than $3 million a year. This issue will not go away. Let us deal with it fairly. Let us do the right thing during this period of deficits.

The PRESIDING OFFICER. Who seeks recognition? Is there further debate?

Mr. PACKWOOD. Mr. President, we are on the verge, I think, of adopting a historic change in our budget procedure with the Gramm-Rudman-Hollings fix that we have adopted. I am very, very hesitant to do anything that might jeopardize an extraordinary step forward that this Senate has taken and I hope the House is going to be amendable to and after all the work that Senators CHILES, DOMENICI, and GRAMM have gone to and the fact that all of the other amendments that have been brought up, except for the Bennett Johnston amendment to extend the debt ceiling, have been tabled or points of order not waived. It is my intention on behalf of Senators BYRD, DOLE, BENTSEN, PACKWOOD, STEVENS, CHILES, DOMENICI, and CRANSTON to table this amendment.

I will so move in just a moment, but I want to emphasize again how strongly I feel that we not jeopardize one of the extraordinary fiscal restraint mechanisms that we may ever have the chance to adopt.

I fear if this amendment is put on this bill and we go to the House with this amendment, we are taking a very slight step in exchange for risking the loss of the most significant budget restraint procedure we have put on the budget since the Budget Act was passed, and for that reason——

Mr. BYRD. Not only that, we are running the risk of this expiring Thursday.

Mr. PACKWOOD. Oh, yes. The majority leader very carefully recalls that we do run again out of money on Thursday and we are no longer talking about the old days of the debt ceiling where we could go on several more days. We cannot redeem any bonds, pay Social Security checks, period. We just cannot pay them.

So we are not fooling ourselves here into thinking we can get ourselves into September by not passing anything.

I see the Senator from Alaska is here. I just waited. I would be prepared and a number of people to move to table, but I understood the Senator from Alaska may also be wanting to make the same motion.

Mr. HUMPHREY. Mr. President, will the Senator from Oregon yield for 1 minute.

Mr. PACKWOOD. Yes. I do not want to shut the main sponsor of the amendment off.

Mr. HUMPHREY. I simply want to make the point. The Senator suggested that no amendments have been adopted controversial in nature.

I remind the Senate that the amendment offered by the Senator from New York that deals with the Social Security trust fund is a very weighty matter indeed and of some controversy.

I thank the Senator.

Mr. PACKWOOD. Now, Mr. President, I do move on behalf of Senators BYRD, DOLE, BENTSEN, PACKWOOD, STEVENS, CHILES, DOMENICI, and CRANSTON to table the amendment of the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Dakota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Vermont [Mr. LEAHY], the Senator from New York [Mr. MOYNIHAN], the Senator from Maryland [Mr. SARBANES], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Alabama [Mr. SHELBY] are absent because of illness in family.

Mr. DOLE. I announce that the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "nay."

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 40, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—49

Bentsen	Fowler	Nunn
Boschwitz	Garn	Packwood
Breaux	Glenn	Pell
Bumpers	Graham	Pryor
Byrd	Harkin	Quayle
Chafee	Hatfield	Reid
Chiles	Inouye	Rockefeller
Cochran	Johnston	Sanford
Conrad	Kassebaum	Stafford
Cranston	Kennedy	Stennis
D'Amato	Kerry	Stevens
Dixon	Levin	Symms
Dodd	Lugar	Wallop
Dole	Matsunaga	Warner
Domenici	McClure	Wirth
Durenberger	Mikulski	
Evans	Murkowski	

NAYS—40

Armstrong	Cohen	Gore
Baucus	Danforth	Gramm
Bond	Daschle	Grassley
Boren	DeConcini	Hatch
Bradley	Exon	Hecht
Burdick	Ford	Heflin

Heinz	Melcher	Rudman
Helms	Metzenbaum	Sasser
Hollings	Mitchell	Specter
Humphrey	Nickles	Thurmond
Karnes	Pressler	Trible
Kasten	Proxmire	Wilson
Lautenberg	Riegle	
McConnell	Roth	

NOT VOTING—11

Adams	McCain	Simon
Biden	Moynihan	Simpson
Bingaman	Sarbanes	Weicker
Leahy	Shelby	

So the motion to lay on the table amendment No. 652 was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 653

(Purpose: To prevent increases in the rates of pay of Members of Congress and certain other officers and employees of the Federal Government under the Federal Salary Act of 1967 without the approval of Congress)

Mr. GRASSLEY. Mr. President, before I send my amendment to the desk, I want to say to my colleagues that I am well aware of the fact that anybody in this body who brings an amendment dealing with pay raises, particularly if they bring it up at 8:30 on Friday night, probably is as welcome in this body as some skunk is at a Sunday school picnic on a hot, sunny day. I am well aware of that.

My amendment is entirely different from the amendment on which we just voted. My amendment deals with a more basic issue. I am well aware that my constituents are more concerned that the pay raise is received through the back door. That is unless Congress takes negative action, the pay raise goes into effect.

So, Mr. President, in the spirit of changing this procedure, I send this amendment to the desk. I do not expect to make long remarks on it.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself and others, proposes an amendment numbered 653.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . Paragraph (1) of section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(1) Each recommendation of the President which—

"(A) is transmitted to the Congress pursuant to subsection (h) of this section; and

"(B) is approved by a joint resolution agreed to by the Congress,

shall be effective as provided in paragraph (2) of this subsection.".

Mr. GRASSLEY. Mr. President, this amendment is cosponsored by Senators HUMPHREY, BURDICK, DECONCINI, PROXMIRE, MCCAIN, HELMS, KARNES, THURMOND, NICKLES, EXON, DOMENICI, ROTH, HECHT, BOND, REID, and WILSON.

Our amendment concerns an issue which the Senate has addressed before, but which requires our consideration again. My amendment would require Congress to cast an affirmative vote before we could receive a pay raise.

This amendment would invalidate the backdoor method by which Congress received its pay raise this past April. Congress was able to receive this pay raise despite the Senate's objection by a vote of 88–6 and despite the House's objection on a voice vote. Congress, and other Federal officials, received the pay raise because the House of Representatives voted 1 day late.

Under the existing method, Congress defers to the Quad Commission, which we created in the Postal Revenue and Salary Acts of 1967. The Quad Commission, as we all know, meets every 4 years to study and recommend an appropriate salary increase for top officials in all three branches of Federal Government.

Mr. President, up until 1977, a one House veto of the recommendation would prevent the pay raise from going into effect. Now however, Congress need do nothing but sit for 30 days after the President transmits the recommendation to Congress, in order to receive the salary increase. If Congress wants to create an appearance of accountability, it need only act too late, after the 30-day limit has expired.

That process is wrong, and it raises the hackles of our constituents. I have received over 3,500 letters from Iowans who oppose the pay raise and the procedure by which we got it. That slight of hand process lacks accountability and it lacks character.

As you are all aware, a case is being heard in the courts to determine whether our action—or lack of action—is constitutional. My colleague, the Senator from New Hampshire, Mr. HUMPHREY, and five of our colleagues in the House of Representatives, have filed this petition. They have pledged to continue the fight to rescind this ill-gotten raise.

I'll let Senator HUMPHREY address the court case, if he chooses. The case, which I support, specifically addresses the pay raise we have just recently received. However, the amendment I offer today addresses only future raises and makes sure that future pay increases will not occur again through the back door.

If we believe we deserve a pay raise, we should be willing to go on record to approve it during that 30-day period. We should be willing to say to our constituents, "Yes, we deserve this raise." Instead of being open and forthright, our past actions tell voters that we want our raises dropped in our laps, rather than taking responsibility for them.

I would like to be able to look the people of Iowa in the eye and say, "A mistake was made when the House did not vote in a timely manner to stop the raise." I want to be able to tell them that we've taken care of it, and it will not happen again."

I, and my colleagues who join me as cosponsors, introduce this amendment because we believe it serves the best interest of the people, and ultimately of Members of Congress themselves. We must be responsive to the people we serve. They regard the present procedure as a gutless one.

Every appropriation bill to pass Congress is put to a vote. Not one dime is spent without the approval of Congress. When it comes to our own pay, why the exception—why no vote? That's what the public does not understand.

So, Mr. President, I urge my colleagues to support this amendment. It is very reasonable. On January 29 the Senate passed, on a vote of 88–6, a resolution sponsored by Senator THURMOND to disapprove the recommended pay raise. In February the House voted, although on a voice vote, to also disapprove the pay raise. Yet, because of a technicality in the law, the pay raise was awarded to us in April.

Our amendment will change this law so that Federal officials, including Members of Congress, cannot receive salary increases unless the Senate and the House vote to approve the salary increase. Future pay increases could not go into effect through a back door. Pay raises will have to go through the front door of Congress, the same as every other budget increase, in full view of the entire Nation.

Mr. President, action, or inaction as the case may be, speaks louder than words. I urge my Senate colleagues to change their posture of inaction into one of action. I urge your support of this amendment.

Mr. President, the amendment is this simple: That in 1990 or into the future, the report of the Quadrennial Commission must be voted upon by this body before it can go into effect.

Mr. STEVENS. Mr. President, if the Senator will yield, does he mean by this body or by each body?

Mr. GRASSLEY. By each body.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Can we not just accept it?

Mr. GRASSLEY. I say to the manager of the bill that I had thought we could. On the advice of some of my friends, however, I am taking their advice now in asking for a vote.

The PRESIDING OFFICER. There is a sufficient second.

Mr. HUMPHREY. Mr. President, I support the amendment offered by Senator GRASSLEY to restore accountability to the pay raise process. The current process is a direct circumvention of the intent of the founders to hold Members accountable to the voters for pay raises. Indeed, I believe it is unconstitutional—1987 was the first year, and hopefully the last, in which the new procedure for determining congressional pay raises was utilized.

This procedure was included—without consideration or debate—in the huge continuing resolution enacted for fiscal year 1986. The procedure, I believe, is unconstitutional. Article I, section 6 of the Constituiton requires "the Senators and Representatives shall receive a compensation for their services, to be ascertained by law. * * *" This means a law passed by both Houses of Congress, affirmatively "ascertaining" the salaries to be paid.

The current process allows a pay raise to go into effect while the Congress sits on its hands. This circumvention of the letter and intent of the Constitution is being challenged in the courts.

Mr. President, it is too late to reform the process in regard to the pay increases recommended by the President in this year's budget. We must deal with those recommendations separately. However, the time has come to restore accountability to the way we do things around here. Aside from the constitutional issues involved, this amendment should be approved simply because it provides for the only responsible manner in which to raise our salaries.

While it may be politically convenient for Congress to pass the buck to the President on this sensitive issue, it is a violation of the most basic principles of accountability in Government. It takes positive action on the part of the Congress to increase every other Federal expenditure, with a few exceptions, such as entitlement programs. Why should our own salaries be any different? Do Senators believe their salaries are a new entitlement program?

The amendment offered by Senator GRASSLEY will restore accountability and place the burden where it squarely belongs. The issue is whether the Congress will fulfill its constitutional duty to set the salary of its Members. Just as importantly, will we restore the accountability to the process that our constituents, correctly, demand? I believe that we must. I hope that my colleagues will support this effort.

Mr. DECONCINI. Mr. President, I am proud to be a cosponsor of the amendment brought before this body by my colleague, Senator GRASSLEY. The amendment upon which we are about to vote is probably one of the more clear-cut, commonsense votes we will take during this historic 100th Congress. I feel that it is high time that Congress take the ambiguity out of the procedure which is followed in awarding itself an increase in pay. The amendment of the Senator from Iowa would accomplish this goal.

Earlier this year, a headline on the front page of the Washington Post read "Pay Issue Straddled by House; Deft Moves Keep Raise Alive Despite Senate Bid to Kill It." The current procedure for voting or not voting pay raises is confusing to the point of farce. Members of Congress—those who are masters of parliamentary procedure and floor maneuvering—can be recorded as voting against a pay raise and yet still receive the raise. We unfortunately saw this demonstrated this year when the Senate voted overwhelmingly against the Reagan administration's proposed pay raise only to see it become effective because of a lack of timely action by our colleagues in the other body.

We need to ensure that these clever, sleight-of-hand movements do not occur in the future. We need to bring our actions into the open glare of public scrutiny. We must demonstrate to the American people that we are willing to be held accountable for our doings. We must be held accountable for our actions.

The amendment upon which we will vote would require Congress to make an up or down vote on the issue of future pay raises. Instead of having the recommendation of the President's Commission on Executive, Legislative, and Judicial Salaries become effective only if both Houses of Congress vote to disapprove the proposed pay raise, this amendment would require both the House of Representatives and the Senate to vote in favor of the salary increase before it could go into effect; thus removing the ability of Congress to obtain an increase in pay through the back door. It is good government and responsible legislation. I strongly urge my colleagues to vote to bring light into the congressional pay raise process and overwhelmingly pass this amendment.

Mr. BYRD. Mr. President, I believe that after this amendment there are no more amendments. I ask the managers if that is correct.

Mr. DOMENICI. We know of no other amendments on our side.

Mr. BYRD. Mr. President, does any Senator want a rollcall vote on final passage?

Mr. STEVENS. Mr. President, I want the RECORD to show that I will vote "no." This body has never failed to vote for a pay raise, since I have been in this Senate, when it has become effective. This amendment amounts to changing the procedure in the House, in which in some instances a pay raise vote is not required. So I will vote "no." I do not believe we ought to tell the House how to run its business.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. Mr. President, there will be a rollcall vote on final passage.

I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Iowa?

Mr. BYRD. Mr. President, I ask unanimous consent that there be 10 minutes on this rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Vermont [Mr. LEAHY], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Alabama [Mr. SHELBY] are absent because of illness in family.

I further announce that, if present and voting, the Senator from New Jersey [Mr. BRADLEY], would vote "yea."

Mr. DOLE. I announce that the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Connecticut [Mr. WEICKER], and the Senator from Pennsylvania [Mr. HEINZ] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 84, nays 4, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—84

Armstrong	Boren	Burdick
Baucus	Boschwitz	Byrd
Bentsen	Breaux	Chafee
Bond	Bumpers	Chiles

Cochran	Hecht	Packwood
Cohen	Heflin	Pell
Conrad	Helms	Pressler
D'Amato	Humphrey	Proxmire
Danforth	Inouye	Pryor
Daschle	Johnston	Quayle
DeConcini	Karnes	Reid
Dixon	Kassebaum	Riegle
Dodd	Kasten	Rockefeller
Dole	Kennedy	Roth
Domenici	Kerry	Rudman
Durenberger	Lautenberg	Sanford
Evans	Levin	Sarbanes
Exon	Lugar	Sasser
Ford	Matsunaga	Specter
Fowler	McClure	Stafford
Garn	McConnell	Stennis
Gore	Melcher	Symms
Graham	Metzenbaum	Thurmond
Gramm	Mikulski	Trible
Grassley	Mitchell	Wallop
Harkin	Murkowski	Warner
Hatch	Nickles	Wilson
Hatfield	Nunn	Wirth

NAYS—4

Cranston	Hollings
Glenn	Stevens

NOT VOTING—12

Adams	Heinz	Shelby
Biden	Leahy	Simon
Bingaman	McCain	Simpson
Bradley	Moynihan	Weicker

So the amendment (No. 653) was agreed to.

Mr. BYRD. Mr. President, a bit of good news for Senators. I want to thank them. It has been a long day and a hard day and I think they have been patient. I thank them for that.

But I should announce that the Senate will not be in tomorrow.

Mr. President, on Monday, I hope that we can take up the catastrophic illness.

ORDER FOR RECESS UNTIL MONDAY, AUGUST 3, 1987

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 noon on Monday.

The PRESIDING OFFICER. Without objection, that is the order.

Mr. BYRD. There will be no more rollcall votes tonight, provided the measure passes. [Laughter.]

Mr. CHILES. Mr. President, we reached a bipartisan compromise because people of good will found the road to accommodation. But while working out agreement on broad policy issues was demanding for the Senators involved, converting the agreement into legislative language was incomparably arduous work.

We owe special thanks to the attorneys in the Office of Senate Legislative Counsel. In particular, let me single out Susan V. McNally for her tenacity, dedication, and scholarship. She was often here so late at night and back so early in the morning, it was hard to tell where one stopped and the other began.

A graduate of Barnard College and the Columbia University School of Law, she's a genuine professional who blends good humor and technical excellence. I appreciate all she had done, and she has done a great deal throughout the evolution of the amendment to Gramm-Rudman-Hollings.

My thanks also go to William F. Jensen of the counsel's office who came to this issue in its latter stages, but brought so much of value to the job. Let me also acknowledge the early work of Richard A. Luaderbaugh, formerly with the counsel's office, for his early contributions to this amendment.

CONRAD AMENDMENT NO. 651

Mr. LEVIN. Mr. President, I voted in support of the Conrad amendment because it is clear that the budget resolution for fiscal year 1988 that the Congress recently approved is inadequate to meet the task of deficit reduction that is before us. When we passed that budget resolution we assumed that it would result in a deficit of $134 billion. However, according to the latest projection by the Congressional Budget Office, that resolution would now produce a deficit of at least $150 billion. We need to do more than we had planned on if we are to meet our original commitment for deficit reduction. I have long believed that across-the-board cuts are a matter of last resort. I am afraid we are approaching the last resort if we are to meet our commitment.

Mr. DOLE. Mr. President, I want to again congratulate Senators DOMENICI, GRAMM, and CHILES on their successful effort to remedy the constitutional problem with the so-called Gramm-Rudman-Hollings law.

Their tireless effort and persistence achieved what few believed possible, and a compromise that addressed the very legitimate concerns of both sides of the aisle and the administration.

The conference with the House will not be easy, especially since we face on important deadline with respect to the debt limit. But serious efforts to address the deficit cannot continue to be side tracked by debates over process.

There were problems with the original statute—our attempt to put into place a real trigger fell short. Today, however, we achieved a reasonable and responsible solution.

My congratulations are also extended to Senators PACKWOOD and BENTSEN. Debt limit legislation is never easy or pleasant but it is necessary so we can meet our fiscal obligations and avoid the very damaging effect of a default.

Mr. WARNER. Today the Senate is completing a bill working toward breaking a deadlock in the Federal budget process. Just before voting on final passage, an amendment was offered to repeal pay raises—awarded last January—to senior civil servants and Members of Congress.

The Senate leadership, both Democrat and Republican, advised Senators that adoption of this amendment would likely kill the budget bill containing provisions leading toward a balanced budget. I voted with the leadership, for a breakdown in this budget procedure could have resulted in delayed Social Security checks and military retirement checks.

A subsequent amendment would require the Congress, when future pay raises are considered, to vote for or against such a raise prior to a raise becoming effective. There is a straight forward and open approach to any future raises. Again, I voted with the leadership to support this measure becoming law. In this way public opinion can be clearly expressed prior to congressional action.

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the engrossment of the amendments and third reading of the joint resolution.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Vermont [Mr. LEAHY], the Senator from New York [Mr. MOYNIHAN] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Alabama [Mr. SHELBY] are absent because of illness in family.

I further announce that, if present and voting, the Senator from alabama [Mr. SHELBY] would vote "nay."

Mr. DOLE. I announce the the Senator from New York [Mr. D'AMATO], the Senator from Washington [Mr. EVANS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Arizona [Mr. MCCAIN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

On this vote, the Senator from Pennsylvania [Mr. HEINZ] is paired with the Senator from Arizona [Mr. MCCAIN].

If present and voting, the Senator from Pennsylvania would vote "yea" and the Senator from Arizona would vote "nay."

The PRESIDING OFFICER (Mr. BURDICK). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 31, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—54

Baucus	Ford	Nunn
Bentsen	Fowler	Packwood
Bond	Garn	Pell
Boren	Graham	Pryor
Boschwitz	Gramm	Quayle
Breaux	Hatch	Reid
Byrd	Hecht	Rudman
Chafee	Helms	Sanford
Chiles	Hollings	Specter
Cochran	Inouye	Stafford
Cohen	Karnes	Stennis
Danforth	Kassebaum	Stevens
Daschle	Kennedy	Symms
Dixon	Levin	Thurmond
Dodd	Lugar	Wallop
Dole	Matsunaga	Warner
Domenici	McClure	Wilson
Durenberger	Mitchell	Wirth

NAYS—31

Armstrong	Hatfield	Murkowski
Bumpers	Heflin	Nickles
Burdick	Humphrey	Proxmire
Conrad	Johnston	Riegle
Cranston	Kasten	Rockefeller
DeConcini	Kerry	Roth
Exon	Lautenberg	Sarbanes
Glenn	McConnell	Sasser
Gore	Melcher	Trible
Grassley	Metzenbaum	
Harkin	Mikulski	

NOT VOTING—15

Adams	Evans	Pressler
Biden	Heinz	Shelby
Bingaman	Leahy	Simon
Bradley	McCain	Simpson
D'Amato	Moynihan	Weicker

So the joint resolution (H.J. Res. 324), as amended, was passed.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the joint resolution passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I ask unanimous consent that the Senate insist on its amendments and request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint the conferees on the part of the Senate.

There being no objection, the Presiding Officer appointed Mr. BENTSEN, Mr. MOYNIHAN, Mr. MATSUNAGA, Mr. CHILES, Mr. HOLLINGS, Mr. LEVIN, Mr. PACKWOOD, Mr. DOLE, Mr. ARMSTRONG, Mr. DOMENICI, and Mr. GRAMM conferees on the part of the Senate.

FUTURE U.S. ASSISTANCE TO PAKISTAN

Mr. BYRD. Mr. President, the distinguished Senator from Ohio [Mr. GLENN] has a Senate resolution which he wishes to call up. It has been cleared on both sides of the aisle. I ask unanimous consent that the Senate proceed to its immediate consideration when he offers it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GLENN. Mr. President, I send to the desk a sense-of-the-Senate resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 266) expressing the sense of the Senate on future United States assistance to Pakistan.

The Senate proceeded to consider the resolution.

Mr. GLENN. Mr. President, over the past four decades the United States has steadily pursued two vital objectives: a stable security partnership with Pakistan and a halt to the global spread of nuclear arms. I believe that both policies remain in our national interest, as well as in the interests of regional and global security. In order to advance these goals, as well as to understand why they are so crucial, it is helpful to reflect on where we have been, where we are now, and where we should be heading in the years ahead.

WHERE WE HAVE BEEN

As an early member of the South East Asia Treaty Organization and the Baghdad Pact, Pakistan long ago joined the United States in opposing Soviet aggression in the region. Today, Pakistan continues to pursue this goal, a mission that includes sheltering some 3 million Afghan refugees. Pakistan has earned our friendship and our respect for having made, and stood by, this commitment.

The United States has been equally steadfast in its commitment to prevent the spread of nuclear weapons as it has been in its support for Pakistan. In its promotion of the Baruch Plan, the creation of the International Atomic Energy Agency, and the Nuclear Non-Poliferation Treaty—with its 132 nonweapon-state parties—the United States has demonstrated that such commitments are essential to national and international security.

Our domestic nuclear laws have echoed these commitments:

In 1976 and 1977, the Symington-Glenn amendments to the Foreign Assistance Act were enacted to bar U.S. assistance to any nation that receives unsafeguarded nuclear technology, or detonates or transfers a nuclear explosive device.

The Nuclear Non-Proliferation Act of 1978 further tightened our nuclear export controls, at a time when international restraint appeared to be threatened by commercial competitiveness among the nuclear suppliers, and by growing international interest in the bomb.

Then in 1985, the Solarz-Boschwitz amendment prohibited U.S. foreign aid to any nonweapon-state that illegally attempts to export from the United States any nuclear equipment or technology useful in manufacturing nuclear weapons.

We have written these domestic laws, ratified international treaties, and pledged the solemn word of the United States, to underscore our commitment to stop the spread of nuclear weapons—and that includes nonproliferation at home as well as abroad. Why have eight U.S. Presidents and dozens of U.S. Congresses stood by these objectives? The answer is very simple: The spread of nuclear weapons violates both our ideals and our national self interest.

Historically, these two policies—maintaining a security partnership with Pakistan and blocking the spread of nuclear weapons—have worked together to reinforce U.S. national security interests, both in South Asia and globally.

WHERE WE ARE NOW

In recent years, however, Pakistan's clandestine nuclear weapons program has undermined both of these interests.

Pakistan's repeated violations of the Symington-Glenn amendments led to a cutoff of U.S. assistance in 1979, shortly before the Soviets invaded Afghanistan. Aid was restored in 1981 under a unique 6-year waiver of the amendments, but Pakistan was put on notice that its continued development of nuclear weapons would jeopardize U.S. aid. In 1985, this linkage was made explicit by legislation requiring the President to certify annually that Pakistan does not possess the bomb, as a prerequisite for future assistance.

With the waiver of Symington-Glenn due to expire this fall, evidence indicates that Pakistan has still not gotten the message. To the contrary, reports since 1981 suggest that Pakistan has—year by year—moved perilously close to becoming a de facto nuclear power. Consider the following:

In 1981: Pakistan is reported to be preparing a nuclear test site in its remote Baluchistan province.

In 1982: Pakistan illegally obtains Swedish flash x-ray machines useful in perfecting the design of Nagasaki-type nuclear weapons.

In 1983: The Washington Post reports that Pakistan has acquired a workable nuclear weapon design from China, allowing Pakistan to forgo nuclear testing.

In 1984: Three Pakistani nationals are arrested in Houston attempting to smuggle krytrons—high-speed electronic switches used to trigger nuclear explosives—to Pakistan.

In 1985: Pakistan reportedly tests a nonnuclear trigger package used in the detonation of nuclear bombs.

In 1986: The Washington Post reports that Pakistan has succeeded in producing highly enriched uranium—a nuclear explosive material—at its secret Kahuta facility.

In 1987: Pakistan's top nuclear scientists boasts in an interview that Pakistan "posesses" the bomb.

Particularly disturbing are recent criminal indictments linking Islamabad to illegal attempts to procure nu-

clear weapon-related materials from U.S. companies. Earlier this month, a Pakistani-born businessman was arrested on charges of attempting to purchase 50,000 pounds of maraging steel—a metal used in the manufacture of centrifuges for enriching uranium—for his "Kahuta client." Kahuta, as you know, Mr. President, is Pakistan's top-secret facility for producing bomb-grade uranium.

This attempt followed a direct effort by the Pakistani Embassy in London to obtain the same quantity of specially hardened steel from the same company, according to recent reports. A week after the arrest, three more purchasing agents were indicted in California for illegally exporting to Pakistan electronic equipment used to make nuclear bombs. In addition, Swiss and West German officials are currently investigating similar charges of Pakistani nuclear smuggling, this time involving plans and equipment to expand Pakistan's capability to produce bomb-grade uranium.

Clearly, these incidents do not represent "free-lance" operations, but a well orchestrated campaign by Islamabad to augment their nuclear weapons capability.

As we seek to extend our security partnership with Pakistan, we must recognize that, when it comes to nuclear restraint, we can no longer rely upon Pakistan's word alone. Pakistan has repeatedly pledged—publicly and privately, formally and informally—that its nuclear program is for peaceful purposes only. Yet the U.S. Ambassador to Pakistan candidly acknowledged this year that, in his words, "there are developments in Pakistan's nuclear program which we see as inconsistent with a purely peaceful program."

If we are to stabilize our military relationship with Pakistan, as well as our aid to the Afghan resistance, we must insist that this gap between words and deeds be closed once and for all. We simply cannot continue rewriting or waiving our laws, and condoning unfulfilled pledges to our President, to accommodate the needs of Pakistan's nuclear weapons program.

Mr. President, the resolution before you is a first step toward putting our relations with Pakistan back on track. It expresses the Senate's strong support for the administration's forthcoming negotiations with Pakistan on gaining Pakistan's compliance with its past commitments. Furthermore, it puts Pakistan on notice that verifiable compliance with these commitments—including its pledge not to produce weapon-grade nuclear materials—is vital to the provision of further military assistance.

I have long heard Members of this body express the need to avoid undercutting the President's bargaining position when it comes to arms control negotiations. Here is an opportunity to send a clear message to Pakistan that the Congress stands shoulder to shoulder behind the President in his efforts to hold Pakistan to its word.

Mr. President, this Senate resolution expresses the sense of the Senate on future United States assistance to Pakistan. We spent several days talking this over with our colleagues on both sides of the aisle and getting agreement. The distinguished chairman of the Foreign Relations Committee, Senator PELL, is with us on the floor tonight. He agrees with the approach we have taken. We have had Senator HELMS, and we have had Senator HUMPHREY on the other side of the aisle with whom we have worked. I also want to pay special tribute to my colleague, Senator BRADLEY, of New Jersey, who has worked tirelessly on this the last several days because of his interest in this and because of his shared concern along with me and along with many of us in this body, certainly Senator PELL and others, that one of the most vexing and difficult, long-term problems for our country is what we do about the spread of nuclear weapons to other nations around the world.

Mr. President, the reason this is so timely and the reason we want to bring it up tonight even though the hour is late and even though it has been a long day is because the Under Secretary of State for Political Affairs, Mike Armacost, is now on his way to Islamabad to meet with Pakistani officials, with the head of state, I believe, with President Zia-ul-Haq, of Pakistan, to discuss the situation in which we find ourselves with regard to aid to Pakistan and with regard to our assistance and how that fits into our nuclear nonproliferation policy.

We resolve with this resolution the following. I will not read all the whereases that lead up to this, but we resolve that:

(1) The Senate strongly supports the President in his forthcoming efforts to gain Pakistan's compliance with its past commitments, including commitments of record, not to produce weapon-grade nuclear materials.

(2) The Senate strongly urges the President to inform Pakistan that Pakistan's verifiable compliance with these past commitments is vital to any further United States military assistance.

(3) The Senate urges the President to pursue vigorously an agreement by India and Pakistan to provide for simultaneous accession by India and Pakistan to the Nuclear Non-Proliferation Treaty, simultaneous acceptance by both countries of complete International Atomic Energy Agency safeguards for all nuclear installations, mutual inspection of one another's nuclear installations, renunciation of nuclear weapons through a joint declaration of the two countries, and the establishment of a nuclear weapons free zone in the Sub-continent.

I think that is a good combination for Under Secretary Armacost to be taking to Pakistan, to be showing the resolve of the Senate in this regard and show that we mean business with regard to nonproliferation.

Mr. President, on March 23, 1987, I appeared before the Senate Foreign Relations Committee to present my views on the administration's proposal for an extension of economic and military assistance to Pakistan.

Mr. President, in essence, I argued that the United States would be abandoning its historic commitment to nonproliferation if we failed to attach new conditions on Pakistan's Nuclear Weapons Program in return for extending our military assistance for 6 years. The Foreign Relations Committee did not accept this approach.

Mr. President, I ask unanimous consent to have the following material printed in the RECORD at the conclusion of my remarks:

My floor statement and my March 23 testimony; an article from the July 11, 1987, National Journal entitled "The Pakistan Conduit"; an article from the March 31, 1987, issue of India Today, entitled "Pakistan's Nuclear Bomb: India's Options;" an article from the London Financial Times, headlined "Cologne Company Raided Over Supply of Nuclear Equipment Plans to Pakistan;" and two recent articles from the London Sunday Times, entitled "A-Bomb Plot Is Linked to Embassy" and "Foiled: Bid to Buy Steel for A-Bombs."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Mr. President, I will answer any questions anyone might have in this regard.

I might add one thing: The fact that we are not going to have a record rollcall vote on this matter tonight should not be an indication to anyone who looks at this material that the Senate has any less resolve on this because it is going to be a voice vote.

We have worked hard the last couple of days and were able to get unanimous consent to bring this up on the floor tonight, without sending it to committee, only because 100 U.S. Senators agreed to what we are doing. One hundred Senators agreed with this or we would not have had unanimous consent to bring this to the floor.

So I do not want anyone to think that this is any less resolved for the U.S. Senate because we are not having a record rollcall vote. We have already had that, in effect, in the form of their approval of bringing this up by unanimous consent tonight. So we have approval for this; and when Under Secretary Armacost brings this up with officials in Pakistan, I hope he is able to make note that this statement has the unanimous consent of the U.S. Senate.

EXHIBIT 1

FLOOR STATEMENT OF SENATOR GLENN

I want today to bring my colleagues' attention to some recent developments relating to Pakistan's pursuit of a nuclear weapons capability. The news provides further evidence that Pakistan is continuing its bomb program despite our quiet diplomatic protests. Some of which have even been delivered at the Presidential level. Although the Foreign Relations Committee recently proposed extending our aid for 2 years without any new condition for nuclear restraint, new information has come to light since the committee's vote that requires us to reconsider the wisdom of that approach.

Though we are less than half way through 1987, this has been a busy year for Pakistan's nuclear weapons program. Here is a sampling of the developments just from the last 4 months:

On January 28th, Pakistan's top nuclear scientist gave an interview to Indian and Pakistani journalists in which he was reliably reported as saying, "What the CIA has been saying about our possessing the bomb is correct and so is the speculation of some foreign newspapers."

On February 16th, the U.S. Ambassador to Pakistan delivered a lengthy speech in Islamabad in which he noted that (quote) "there are developments in Pakistan's nuclear program which we see as inconsistent with a purely peaceful program."

On March 23rd, President Zia echoed the views of his top nuclear scientist, by boasting to a Time magazine interviewer that (quote) "Pakistan has the capability of building the bomb. . . you can write today that Pakistan can build a bomb whenever it wishes."

On April 27th—shortly after the Foreign Relations Committee approved a Pakistan aid package that my colleague from California has called "not only toothless, but gumless"—the Indian Minister of Defense solemnly informed his lower House of Parliament that (quote) "the emerging nuclear threat to us from Pakistan is forcing us to review our options. . . [adding] I need not remind members of the manner in which the United States has chosen to ignore Pakistan's search for nuclear capability." Although India had detonated a nuclear explosive in 1974, the country chose not to develop a nuclear weapons arsenal—this decision now appears to be under review.

That brings me to the month of May. A state prosecutor's office in Cologne, West Germany just announced that a major criminal investigation was underway involving a large West Germany firm that is suspected of illegally exporting plans and equipment related to uranium enrichment activities to Pakistan. The investigation will build upon information that was gathered during a raid by West Germany customs authorities on two factories and a private residence on April 27th, and on information gathered by the Swiss during a raid of their own on another firm back in January 1986. I would like to submit for the record further details on these raids.

I am deeply concerned about the administration's failure to notify Congress about these most recent efforts by Pakistan to acquire supplies for its unsafeguarded uranium enrichment program. The scale of the Swiss and West German investigations raises the now-familiar questions: What did the administration know, and when did they know it? If the illicit activities that inspired these investigations were known to the administration prior to April 23rd—when the vote in the Foreign Relations Committee took place—then the administration purposely withheld information that could have affected that vote. If the administration was not aware, this raises questions about how well we are monitoring Pakistan's secret nuclear supply network.

It is important to note that the West German firm that is the target of these investigations—Leybold Heraeus—was cited in the 1981 book, "The Islamic Bomb," as a major supplier of vacuum pumps and gas purification equipment to Pakistan's uranium enrichment program. West German and American press reports have identified the same firm in subsequent nuclear dealings with Pakistan. Given the notoriety of this particular firm, I find it hard to believe that the administration was not aware of its continuing involvement with Pakistan's nuclear program.

After all that has occurred in 1987 alone, I shudder to think what the month of June has in store for us. But I will make at least two predictions: First, Pakistan's nuclear weapons program will roll right along, unfettered by any new restraints from Washington. And second, the administration will earnestly maintain that its very, very quiet diplomacy with Pakistan is succeeding in persuading Pakistan to stop its efforts to acquire the bomb.

Now, I am well aware that out policy toward Pakistan is not entirely based upon our strategic interest in nuclear nonproliferation. Our interests also require Pakistan's assistance in opposing Soviet aggression in Afghanistan, and our objectives include the promotion of economic and political development as well as human rights. None of these objectives can be met, however, if the next months herald the start of a nuclear arms race in South Asia. Should that occur, we will be facing not only the prospect of another war between India and Pakistan, but the threat that President Zia himself made in March 1986: "(Quote) and when we acquire this technology, the Islamic world will possess it with us."

We cannot use our diplomacy to resolve the deep-rooted mistrust that exists between India and Pakistan. Yet by using our diplomacy to encourage Pakistan to stop producing weapons-grade nuclear materials, we can stop this imminent nuclear arms race in South Asia, before it escalates out of control. We must also encourage India to take positive steps in this direction by ending its stubborn and provocative refusal to adopt international safeguards at its own nuclear facilities. Over 130 nations have agreed to these safeguards, and it would well serve the security interests of both countries if they were applied to all nuclear facilities in South Asia.

I do not need to remind my colleagues that we are running out of time. Events are in the saddle. We cannot wish Pakistan's nuclear weapon program out of existence. We cannot just cross our fingers that India and Pakistan will be able to avoid a nuclear arms race. Instead, we must do what our forefathers would have done: we must have the courage to take action to preserve our national interests and our national values. When the Pakistan aid package comes to the floor for your votes, I will offer an amendment requiring Pakistan to reaffirm its peaceful nuclear intentions by agreeing to stop production of weapon-grade nuclear materials. We cannot afford to drift along any farther with the administration's bland assurances on Pakistan's nuclear program. Who knows, after all, what July will bring?

STATEMENT BY SENATOR JOHN GLENN ON U.S. ASSISTANCE TO PAKISTAN BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

Thank you, Mr. Chairman, for this opportunity to discuss the administration's proposed aid package to Pakistan. Webster defines dilemma as: "A situation requiring a choice between equally undesirable alternatives." "Dilemma" perfectly describes the situation we are in with regard to the administration's proposed six year aid program to Pakistan.

Dilemma, in that we want to aid Pakistan. We share common objectives with Pakistan in the Asian sub-continent; limiting Soviet influence, encouraging political and economic development, and reducing prospects for another war between India and Pakistan.

Of course we understand their concerns about India.

Of course we share their concerns about the Soviet invasion of Afghanistan and whether that is but preface to even further Soviet moves into South Asia.

Of course we share their concern about the difficulties in coping with the more than three million Afghan refugees now in Pakistan.

And, of course it is in our mutual interest to continue the arms flow to the "Mujaheddin," the Afghan freedom fighters trying to drive Soviet invaders from their homeland.

But those are current concerns. Much as we want and value all the above, there are longer term worldwide nuclear weapons proliferation considerations that must be carefullly weighed, lest short term considerations effectively wreck the Non-Proliferation Treaty (NPT), the Nuclear Non-Proliferation Act (NNPA), the provisions of the Foreign Assistance Act, and in the process encourage the spread of nuclear weaponry.

These are not easy decisions, and "horns-of-a-dilemma" well describes my view regarding approval or disapproval—"exigencies of the moment" versus the even greater potential of future nuclear Holocaust. It's that stark.

To understand this fully, we need to briefly review what has happened with nuclear control efforts through the years.

The post WWII proposal of Baruch and Lilienthal to put all-things-nuclear under some form of international control did not materialize.

But in the ensuing years, if the United States was occasionally misguided and naive in its rush to spread nuclear technology for the benefit of mankind, we made up for it with our leadership in nuclear non-proliferation activities.

It was the United States that took up the challenge to create and bring into force the Nuclear Nonproliferation Treaty. More than 130 non nuclear weapon states are now signatories to the treaty, which went into force in 1970. Nations around the world had become increasingly concerned that with the spread of nuclear technology and the very sophisticated equipment to exercise that technology, it would not be many years before small border conflicts that might have received comparatively little notice, might now involve such weapons of mass destruction that millions of lives could go in a flash, and the potential for escalation into nuclear WWIII would be enormously increased.

The NPT bargain, simply put, was for nuclear weapons states to cooperate with non-weapons states in the peaceful uses of nuclear energy in return for the non-weapons

state's agreement to give up any programs leading to nuclear weapon capability. The other part of the agreement requires the weapons states to negotiate in good faith to try to reduce existing weapons stockpiles, negotiations that have received far too little emphasis in the years since 1970.

In addition to the NPT, the global nonproliferation regime includes supplier agreements, safeguards arrangements through the IAEA, and national nuclear export laws like our own Nuclear Nonproliferation Act, and the Symington-Glenn amendments to the Foreign Assistance Act.

The Symington and Glenn amendments should be particularly noted, since their requirements are those which President Reagan seeks to waive. They basically provide that after enactment in 1976 and 1977, aid would be terminated to any non-nuclear weapons state that imported, without safeguards, enrichment or reprocessing equipment and technology. President Carter made his evaluation under those laws and cut off aid to Pakistan in 1979.

In the wake of the Soviet invasion of Afghanistan, President Reagan proposed fully repealing the amendments mainly so aid to Pakistan could resume. Congress refused the full waiver, but gave a six year waiver for Pakistan only with certain conditions attached. At the moment these conditions are that the President must certify each year that (1) "Pakistan does not possess" an explosive nuclear device, and (2) that U.S. aid would help steer Pakistan away from pressing for the nuclear option.

While 132 nations have placed their interests under the umbrella of NPT, a number of countries of particular proliferation concern have refused to sign the NPT. Among these are Pakistan, India, South Africa, Israel, Argentina, Brazil.

U.S policy decisions in the nuclear area, even when made in the context of one country such as Pakistan, have a serious ripple effect on the entire nonproliferation regime. The regime is fragile, and requires constant vigilance to keep it intact. There are signers of the NPT who, prior to last years five year review of NPT were reported in the press to be openly wondering whether the bargain has been worth it. Any lack of resolve on the part of the United States toward preventing the spread of nuclear weapons—any relaxation of commitment by the world's nonproliferation leader—dangerously weakens the global regime. If the regime were to collapse, the hopes of mankind for a world without or even with few nuclear nations would collapse with it.

This is the prism through which one must view both facts and policy decisions about Pakistan. What are the facts?

Following the Indian "Peaceful Nuclear Explosion" (PNE) in 1974, Pakistan President Bhutto vowed Pakistanis "would eat grass" if necessary, to gain a similar capability, and their program was launched.

Through the years, Pakistani officials have repeatedly denied having a nuclear weapons program although available information indicated just the opposite. I personally received such assurances two years ago from Pakistan President Zia and other top officials during a visit to Pakistan.

Such assurances have been used by the administration to justify aid to Pakistan, even though such assurances were believed to be highly suspect by most interested observers.

But presidential ability to honestly "certify" Pakistan's non-nuclear weapons condition is changing drastically.

In 1979, as a result of Pakistan's violation of the Symington-Glenn amendments to the Foreign Assistance Act, the Carter administration, as stated, halted economic and military assistance to Pakistan. Following the Soviet invasion of Afghanistan, the Reagan administration succeeded in convincing Congress to restore this aid as a quid pro quo for Pakistani cooperation in allowing weapons to be funneled to the Afghan rebels. But the administration failed at that time to pressure Mr. Zia into providing any guarantees that Pakistan would halt development of the bomb in return for the aid. Nonetheless, the administration led Congress to believe that nuclear restraint on the part of Pakistan would be a consequence of the U.S. aid program. In 1981, then Secretary of State Alexander Haig said, in a letter to then Senator Percy:

"* * * By providing Pakistan with conventional military equipment in the framework of a bilateral relationship of confidence and mutual understanding, the United States will be in a better position to influence the shape and direction of Pakistan's nuclear program in the future."

Six years and more than $3 billion later, we see Pakistan poised at the nuclear threshold. Very credible press reports indicate that Pakistan is manufacturing and testing components for nuclear weapons. A newly released authoritative study by the carnegie endowment—along with recently reported statements by Pakistan's president and its top nuclear scientist—suggest that Pakistan is now capable of manufacturing a nuclear explosive device. These are but two recent additions to the long history of Pakistan's pursuit of the bomb. I would like to submit for the record a 26 page chronology of these events that has been prepared by the Congressional Research Service, to appear at the end of my statement.

It is now amply clear that Pakistan gained the status of "nuclear threshold state" during the period when U.S. assistance was at its highest level. The American taxpayer has a right to ask how much "nuclear restraint" his previous tax dollars have purchased in Pakistan, before another four billion are provided.

Administration spokesmen point to Pakistan's failure to test a nuclear device as an indicator of the restraint that our aid has produced, which ignores numerous press reports that Pakistan has been working with a "proven" Chinese design. The administration has given indications of a willingness to bend over backwards to avoid an honest application of the test of "possession" of a nuclear device by Pakistan in order to keep the aid flowing. It is apparent by their refusal to give a clear interpretation of the meaning of "possession" that they would have us believe that a country does not possess nuclear weapons until it has assembled every last components in a bomb casing. Before we accept this curious definition. We would be well advised to recall that the entire United States nuclear arsenal in the 1940's and the early 1950's was stored in separate components. I would like to submit for the record an excerpt from a 1984 U.S. Army report on the safe storage of nuclear weapons.

One of the fundamental problems in this affair is the complete lack of credibility of the Pakistani government's repeated assurances about the nature of their nuclear program. More than a year ago. The President elicited additional assurances from Pakistan that they would not produce uranium enriched to more than 5%. By their own admission, they have now produced bomb grade uranium enriched to more than 90%. And America, the nation that has supposedly been standing tall for the past six years, has let this mendacious behavior go unchallenged.

Why? Because the administration has made the decision that, as former Pakistan President Bhutto termed it, the "Islamic bomb" is less important to us than ensuring military assistance to the Afghan rebels. Much as I want to see assistance continue to the Afghans, that evaluation is wrong.

Let me give just one illustration.

To use President Bhutto's words again, an "Islamic bomb" is the ultimate threat to Israel's existence. Pakistani nuclear weapons production will sooner or later, whether by design or by espionage, result in the wider transfer of nuclear weapons technology to countries in the Middle East. Israel, regardless of the state of her own nuclear capabilities, will have her existence threatened. The flash point for nuclear war will be lowered through the combination of religiously-based conflict with the means for mass destruction.

Amazingly, however, it isn't only the Pakistani bomb the administration wants us to swallow in order to guarantee aid to the Afghan rebels through Pakistan. They want us also to continue—without any new nuclear restrictions—supplying Pakistan with F-16's and perhaps AWACS so that Pakistan will have what could be an American made nuclear weapons delivery system and an ability to protect her nuclear weapons facilities from raids by those who might not think an Islamic bomb is a benigh development.

Mr. Chairman, in recent months we have seen what can happen when a nation forsakes an important global policy principle for narrow, illusory benefits. We sacrificed our global anti-terrorism policy in the hope that we could trade arms to Iran for American hostages. Now we are being asked to sacrifice our global nonproliferation policy in the hope that we can trade arms to Pakistan for Pakistani cooperation on Afghanistan and nuclear restraint. What do we then say to Argentina or Brazil or South Africa or the nations of the Far East or any of the 132 NPT signers about credibility of the United States and trust in U.S. nuclear nonproliferation policy?

Mr. Chairman, I, like the President, want to aid the Afghans. Just as I, like the President, wished for the release of American hostages. But we cannot and should not allow ourselves to be blackmailed into making a deal that will do irreparable damage to our long-term global efforts to stop the spread of nuclear arms. The basic objective of nuclear nonproliferation should not be so easily bargained away.

Accordingly, on March 5, I urged President Reagan to suspend military aid to Pakistan pending a thorough review of the Pakistani nuclear program. I argued that this aid should not be resumed until we have obtained reliable assurances that Pakistan is no longer producing nuclear explosive materials.

My purpose here today, however, is to suggest legislative action on the proposed 6-year aid package to Pakistan to begin in fiscal year 1988. The administration has requested approval of this package without any restrictions on Pakistani nuclear behavior. This is completely unacceptable. The question isn't "should there be restrictions?" but "what should these restrictions be?"

Proposals to limit the amount of military assistance, or the length of the proposed aid program—for example, 2 years instead of 6 years—simply fail to confront the ongoing progress of Pakistan's nuclear weapons program. In 2 years, we will be faced with the same tough choices between nonproliferation and other foreign policy interests that we are facing today. The only difference will be that Pakistan, as well as India, and probably Israel, will have proceeded even further down the nuclear path. With Pakistan now attempting to straddle the nuclear threshold, Congress cannot afford to defer—once again—our responsibility to make these choices.

I am proposing a 6-year extension of the present waiver of section 669 of the Foreign Assistance Act to allow both economic and military assistance to Pakistan. Under current law, which I favor continuing, this assistance would cease if the President is unable to certify that Pakistan does not possess a nuclear explosive device. This condition should be supplemented with the following additional requirement: "Military assistance should not be provided unless the President is able to certify annually to Congress that he has received reliable assurances that Pakistan has ceased producing weapons-grade nuclear material."

By "reliable assurances," I mean a formal, written commitment by Pakistan's political leadership, verified by onsite inspections of relevant facilities by designated representatives of the United States or by any other technical means the United States finds acceptable.

In addition, I am proposing to amend section 670 of the same act to require that, in the event of a nuclear detonation by a nonnuclear weapon state, funds provided under all U.S. legislation—rather than just the foreign assistance and arms export control acts—would be terminated. This would increase the cost of a nuclear test to all nonnuclear weapon states, including India, not just those with which we have close military ties.

What is the likelihood of Pakistan accepting this new condition for continued U.S. conventional military assistance? Islamabad is seeking our aid because it has sensibly determined that such assistance would serve its national security interests. Pakistan's security reward for truncating its production of nuclear explosive materials would be substantial; I am proposing not a scaled down or shortened aid package, but a full 6-year, $4 billion assistance program complete with a Presidential option to provide an airborne early warning system.

Under my proposal, Islamabad would have to decide between an extended security partnership with the United States and the production of nuclear weapons. The rational choice is obvious. Nuclear weapons will not settle border clashes between Pakistan and India any more than they did between China and the Soviet Union. Nor will they assure victory if a conventional war breaks out, as illustrated by the United States experience in Vietnam. They will, however, raise the prospect of a conventional conflict escalating to the level of mass, mutual destruction. Furthermore, by goading India into a nuclear arms race that Pakistan could not hope to win. A decision by Islamabad to pursue nuclear weapons would severely undercut Pakistan's national security.

Of course. I hasten to add, we cannot guarantee acceptance by the Pakistanis of this proposal. Should the condition on ceasing production of nuclear weapons materials be spurned or violated by the Pakistanis, we must recognize at that point that no diplomatic action by the United States is likely to deter Pakistan from triggering a nuclear arms race in South Asia. In that case, we should reluctantly end our military assistance, including the sending of spare parts for the F-16's—those superb nuclear weapons platforms we have been providing to Pakistan for the past 6 years—and concentrate on diplomatic activities and on repairing our tattered nonproliferation policy as it applies to other countries of concern to us. For if we fail to take a stand on Pakistan, we will be on a slippery slope that will make it increasingly difficult for us to take a stand against any proliferator.

Both India and Pakistan are now just a step away from the ability to create armageddon. As a friend of both nations, we must redouble our efforts to prevent this nuclear nightmare. Ultimately, we should seek a verifiable Indian commitment that it too is not producing nuclear materials—especially plutonium—for weapons purposes.

We should encourage Pakistan to place its current stocks of highly enriched uranium under multilateral auspices. Consideration should also be given to a joint pledge by the United States, Soviet Union, and China not to use, or threaten to use, nuclear weapons against India or Pakistan.

The course that I am proposing, though not an easy one, seems better oriented to our long-term national security interests in South Asia than is the current policy. We must never lose sight of our long-term national objectives in the region, which include limiting Soviet influence, and promoting the political stability, economic prosperity, and territorial integrity of all nations in South Asia. I cannot emphasize more strongly that a nuclear arms race in South Asia would endanger all of these objectives.

Mr. Chairman, our choice is not between Afghanistan and the Pakistani bomb—it is between accepting or relinquishing our great power responsibility to contain the threat of nuclear war. The time is running out. A choice must be made.

One last word, Mr. Chairman. The view of non-nuclear weapon nations that we have no right to pressure them not to strive for a nuclear capability that we and other nations already possess, is a valid one. It can only be answered by saying it is in the interests of all humanity to do our best to control the nuclear dangers by not only preventing nuclear proliferation, the main theme of these remarks, but by also showing far more progress in scaling down existing nuclear weapons stockpiles of the superpowers. That was part of the NPT agreement with 132 nations. They will not be patient forever. Time is, indeed, running out.

THE PAKISTAN CONDUIT

(By Christopher Madison)

It is not a textbook example of foreign relations, but it bears the convincing logic of success. With very little fanfare or public debate, Pakistan in the past decade has become a major U.S. ally in south Asia.

In fact, judging from U.S. aid levels—more than $500 million in economic and military assistance for next year and $4 billion over the next six years—it has become one of the most important U.S. allies worldwide. Only Egypt and Israel get more foreign aid each year.

A sign of Pakistan's growing clout in Washington came earlier this year when the House Foreign Affairs Committee and the Senate Foreign Relations Committee voted to remove for two more years a persistent thorn in Pakistan's side: legislated restrictions on U.S. military and economic aid.

The restrictions, known as the Glenn-Symington Amendment and aimed at preventing Pakistan from developing nuclear weapons, were enacted in 1978, and aid to Pakistan was cut off pursuant to the amendment the following year.

Soon after President Reagan took office, however, aid was restored when Congress waived the amendment for six years, beginning in 1981.

Though the latest two-year waiver, if finally enacted would continue that policy, it is not a total victory for Pakistan or for the Reagan Administration, which had sought another six-year waiver.

But it was significant because support for the waiver was led by liberal Democrats—Stephen J. Solarz of New York, in the House and Christopher J. Dodd of Connecticut and John F. Kerry of Massachusetts in the Senate. Dodd and Kerry, who serve on the Foreign Relations Committee, joined with the panel's Republicans to approve the waiver.

Committee approval of the waiver is seen as a sign not only of Pakistan's closer relationship with the United States but also of the fact that the relationship is no longer dominated by the nuclear issue.

"The relationship always has had more dimensions that the nuclear issue," said Denis M. Neill, a lobbyist whose firm represents the government of Pakistan. "But in the past, the Congress has not seen fit to address the other issues."

The legislative battle is not over yet; opponents of the nuclear nonproliferation waiver will bring the battle to the full House and Senate later in the year.

But John Glenn, D-Ohio, the Senate's most knowledgeable and active member on the nonproliferation issue said in an interview, "When you oppose a committee [decision] out on the floor, you are going against the tide, so I'm not going to predict how I'm going to do."

High aid levels and the waiving of nuclear restrictions are not the only signs of close U.S.-Pakistani relations. Discussions are under way between the two governments about the sale to Pakistan of a sophisticated air defense system similar to the Airborne Warning and Control System (AWACS) aircraft that were sold to Saudi Arabia.

The reason for all this is obvious: Pakistan is supporting the Afghan rebels who have been fighting their Soviet invaders since the beginning of the decade.

Not only is Pakistan supporting the Afghan rebels, known as mujahedeen, but it is also the conduit through which covert U.S. assistance flows to the rebels.

And it is the war in Afghanistan that supersedes the nonproliferation question in the minds of most Members when Congress considers aid to Pakistan.

"There's no question that Afghanistan drives the Pakistan aid bill issue," said a House foreign policy aide who has been following the issue closely.

Solarz affirmed that the Foreign Affairs Committee's vote for the waiver reflects a strong commitment to the Afghan cause.

But Glenn believes that view is shortsighted. "Short-term concerns are warping the thinking on the long-term concerns," he said.

THE NUCLEAR ISSUE

For Glenn, long-term issues are nuclear issues, and they have been a controversial element of U.S. relations with Pakistan, as

well as with India, for more than a decade. Through international organizations, treaties and less formal arrangements, the United States and other nuclear powers have tried to prevent nations such as Pakistan from developing the capability to construct nuclear weapons.

Pakistan has refused to sign the 1978 Nuclear Nonproliferation Treaty that more than 100 nations have signed so far. As a result, Congress in 1978 adopted the Glenn-Symington Amendment, which required a cutoff of U.S. aid to countries that received enriched uranium material, technology or equipment and did not subscribe to international safeguards to ensure that the materials were not used to produced nuclear weapons and were not transferred to other countries.

Pakistan, which was receiving the enrichment materials, refused to accept the international safeguards, and U.S. aid was terminated. In 1981, Congress restored the aid by waiving the Glenn-Symington Amendment, but it also stipulated that the President must give Congress assurances that Pakistan was not using its unclear program to produce material that could be used for a bomb. Reagan provided those assurances.

Since then, there have been many indications, including statements by Pakistani officials, that weapons-grade material is being produced and that the President could not credibly certify otherwise to Congress.

To put some teeth into the U.S. non-proliferation policy, liberal Senate and House Democrats this year sought to condition the U.S. aid program on some form of international inspection to ensure that weapons-grade material was not being produced.

A majority of Foreign Relations Committee Democrats wrote in the committee report, "We felt it imperative that Congress send Pakistan a signal that flouting nonproliferation commitments to the United States will not be tolerated."

But the committee defeated the proposal by a single vote when Dodd and Kerry defected and supported a two-year waiver of the restrictions.

Some said Dodd's vote was cast in part through pique as well as substance because he was upset that the committee staff had drafted the proposal without sufficient consultation with the Senators, on the assumption that it would be adopted.

In the Foreign Affairs Committee, similarly tough nonproliferation language went down to defeat after Solarz drafted an alternative and gained the support of the committee's leaders—chairman Dante B. Fascell, D-Fla., Lee H. Hamilton, D-Ind., and several others, as well as the committee's Republicans. The panel, over the objections of a majority of its Democratic members, voted for a two-year waiver of the Glenn-Symington Amendment, similar to that adopted by the Senate committee.

Two considerations drove this somewhat lenient approach to Pakistan: doubts that a tough approach would work on the nuclear issue, and concern over the fate of the Afghan rebels.

UP THE REBELS

Congressional support for the rebels contrasts significantly with the attitude on Capitol Hill toward other rebel groups, particularly the Nicaraguan contras.

Congress, by approving large aid packages to Pakistan, by waiving the Glenn-Symington Amendment for two more years and by considering the sale of an AWACS-type system to Pakistan, is affirming the Administration's policy of rewarding Pakistan for its efforts on behalf of the Afghan rebels.

Although the amount of the covert assistance funneled to the rebels is classified, published reports estimate it at $250 million-$300 million annually.

That aid is separate from the direct U.S. economic and military aid to Pakistan, which that country uses to beef up its own military forces and to strengthen its economy.

In addition to serving as a conduit for assistance to the rebels, Pakistan has played host to Afghan refugees and allowed the Afghan rebels to stage their military actions from the Pakistani side of the border.

A House foreign policy aide said: "There is widespread support for giving Pakistan a generous package because of the Afghan issue. There is a consensus in favor of U.S. support for the Afghan freedom fighters, a consensus that they are good guys."

The Foreign Relations Committee, in approving the aid package for Pakistan as part of the fiscal 1988 foreign aid bill, said it was "mindful of the fact that for over seven years, Pakistan has been the generous host to more than 2.5 million Afghan refugees. It is also a frontline state facing a real threat from Soviet forces occupying neighboring Afghanistan. It deserves full U.S. support."

And in rejecting a proposal to condition some of the aid on Pakistan's acceptance of nuclear safeguards, the committee said, "A punitive approach would be particularly unfortunate at a time when Soviet cross border aerial attacks are increasing and when United Nations-sponsored Afghanistan negotiations appear to be entering a new, and possibly crucial, phase."

A related reason for support of Pakistan is its proximity to the Soviet Union. "There's a general sense that if you don't shore up Pakistan, they may be forced to reach some accord with the Soviets because of their activity in Afghanistan," said a House foreign policy aide.

There is also a more cynical interpretation. Throughout the six years of the Reagan Administration, liberal Democrats have been skeptical at best about the Administration's policy of supporting "freedom fighters" in places such as Angola, Cambodia and Nicaragua. But they have been willing to support the Afghan rebels, in part because they are clearly fighting an invasion from another country rather than an internal revolution.

Strong support for Pakistan, despite the nuclear proliferation question, "allows a lot of liberals to cast an anti-Soviet vote," said a pro-Pakistan sources.

A BLANK CHECK?

Glenn in an interview described the Pakistan issue as "very vexing. I don't want to see aid to Afghanistan stopped in any way. But I'm more concerned about long-term aspects of it. . . . Are the the Pakistanis really going to cut off the flow of aid to the Afghans? It's in their own interest to continue it."

Both Solarz and Kerry, according to aides, voted for the two-year waiver because they believed that forcing Pakistan to confront the nuclear issue on U.S. terms would be counterproductive at best, just as it was in 1979.

Rather than give in to U.S. demands to receive aid, they are said to believe, Pakistan instead would abandon entirely its pledge to the United States not to develop nuclear weapons.

"Pakistan is not going to pay the nuclear price that we would like it to pay," a Solarz aide said. "We could say we'll cut off the aid, and that would merely push them into an open nuclear program, an open explosion."

Kerry, according to a knowledgeable source, "spent an awful lot of time with [undersecretary of State Michael H.] Armacost and became convinced that there was a risk that as it did in 1979, Pakistan would take a walk."

But Glenn rejected this analysis, in part, he said, because it amounts to an admission that "the U.S. has no policy" and that the Glenn-Symington Amendment no teeth. "I have said, what good is it to keep it on the books if we always find a detour around it," Glenn said. But he added that he was not yet ready to recommend that the amendment be repealed.

Solarz argues that the two-year waiver gives the United States some leverage—an aide described it as "a shorter tether."

In an interview, Solarz said, "The real alternative to a two-year waiver was a six-year waiver, which would have been counterproductive."

The two-year waiver, he said, is meant to reflect "a continuing concern over the Pakistani nuclear program and the extent to which Congress does not want to give a six-year blank check to Pakistan."

A foreign policy lobbyist said that supporters of the two-year waiver have "taken a very sophisticated position—staying in the game but making it clear that it is not a blank check."

But looked at from another viewpoint, it is hard to contend that the United States has any leverage left; Pakistan, in fact, seems to be holding most of the cards.

Critics such as Glenn argue that the Pakistanis have successfully used the Afghanistan issue to force the United States to abandon its nonproliferation policy.

Glenn called the two-year waiver "a dodge, . . . a way of ducking the issue," and said he would seek to replace it with restrictions that would deny U.S. aid to Pakistan next year unless that country certified that it was not producing weapons-grade uranium and agreed to allow outside inspection.

Glenn's view was backed up by most Foreign Relations Committee Democrats, who, following their defeat on the issue, drafted somewhat bitter language to include with the foreign aid bill report.

In a "minority views" section of the committee report, the Democrats wrote that the language the committee adopted creates "the perception of a United States willing to supply Pakistan with very sophisticated weapons and yet unwilling to hold Pakistan to its nonproliferation commitments."

Separately, Sen. Brock Adams, D-Wash., wrote: "Several of my colleagues . . . pointed to the impact restrictions on aid might have on Pakistan's ability to deal with the Soviet threat in Afghanistan. . . . They argued we could not afford to weaken Pakistan or run the risk of losing their continued cooperation. . . . Certainly, I agree that the Soviet threat in Afghanistan is real. But so is the destructive potential of the nuclear arms race in South Asia. A realistic policy must deal with both threats. This bill doesn't."

Glenn and others will try to amend the committee language on the Senate floor. They are thought to have a better chance there than their fellow critics will have in the House. But it is not clear where or when the two-year waiver will come up. It is now attached to the House and Senate versions of the foreign aid authorization bill, but

there is no certainty that those bills will make it to the floor.

Instead, as in previous years, the foreign aid program may be passed as part of a catch-all appropriations bill at the end of the session. In that case, sponsors of the waiver would seek approval of the provision from the two Appropriations Subcommittees on Foreign Operations.

In the past, the subcommittees, chaired by Daniel K. Inouye, D-Hawaii, on the Senate side and David R. Obey, D-Wis., on the House side, have looked favorably on the Administration's requests for aid to Pakistan. This year is expected to be no different.

PAKISTAN'S NUCLEAR BOMBSHELL

Within the tightly-knit nuclear establishment he is known as Dr. Strangelove—after the fictional Hollywood character obsessed with the nuclear bomb. To others, he is a sort of Islamic James Bond, a mysterious and shadowy figure whom the London *Observer*, way back in December 1979, called "the most successful nuclear spy since Klaus Fuchs and Alan Nunn took their secrets to the Kremlin". Inside Pakistan, he is hailed as a national hero, second only to its founder, Mohammed Ali Jinnah. And, as a civilian, he is the most heavily-guarded individual after the country's military ruler, General Zia-ul-Haq. His twin-bungalow house on the outskirts of Islamabad swarms with armed personnel of the crack Inter-Services Intelligence unit.

But to the world at large, Dr. Abdul Qader Khan, 51, has a greater claim to dubious fame. He is, as international headlines have repeatedly proclaimed, the father of the Islamic bomb. And last fortnight, Dr. Khan finally filed for paternity. In a sensational interview to an Indian journalist that exploded around the world, Khan made the tacit admission that Pakistan had a nuclear bomb. As *Newsweek* later commented: "The interview brought to critical mass the evidence that Pakistan has become the latest member of the world's nuclear-arms club."

Just how critical is now the haunting question. Despite the clumsy denials issued by Khan and Pakistani government officials after the interview appeared in the London Observer, it was patently obvious that he had not only given the interview—his first to a foreign journalist—but also said exactly what was attributed to him by Kuldip Nayar, a veteran journalist generally considered sympathetic to Pakistan. In fact, the immidiate fallout of Khan's sensational revelations was the fate of Mushahid Hussain, the dynamic and widely-respected editor of the Muslin, an Islamabad daily, who had arranged the 70-minute interview and was present when it was conducted. Hussain publicly confirmed that Khan was interveiwed by Nayar and also what transpired. "For too long the Government here has been trying to deny what is obvious to most," said Hussain, who resigned after his paper was forced to print a statement that the interview was a fake.

But in the larger context, Khan's bombshell raised serious and disturbing questions, not the least being its curious timing, its effect on the strategic balance in the subcontinent and the likely response from India, already a member of the nuclear club. The interview was actually conducted on January 28 when the border tension between the two traditional adversaries was still a serious issue. It also appeared just before the US Congress was scheduled to discuss the passage of the new US $4.02 billion (Rs 5,523 crore) military aid package for Pakistan.

In the context of the existence of the 1977 Symington Amendment, which outlaws a direct US foreign assistance programme to any country which delivers or receives unsafeguarded nuclear enrichment, reprocessing equipment or technology. Khan's statements seemed suicidal. He stated, for instance: "We have upgraded it (highly-enriched or weapons-grade uranium) to 90 per cent to achieve the desired results." And, asked if Pakistan had tested the bomb, he retorted: "Is it necessary? America has threatened to cut off all its aid. The testing does not have to be on the ground. It can be done in a laboratory through a simulator."

South Block is convinced that Khan's statement was not an impulsive outburst by a brilliant scientist frustrated with having to hide his light under a semi-transparent bushel. It was, instead, a carefully calculated and specifically directed message with the covert blessings of Pakistan's military establishment. "It is impossible that a man as heavily guarded and as important to Islamabad as Dr. Khan could meet an Indian journalist for over an hour to discuss their nuclear programme without some sort of green signal from the military leadership," says a foreign office official.

In fact, Nayar says that he has been visiting Pakistan every year for the past four years and each time has requested an interview with Khan which was refused. This year, when he arrived, Hussain said: "This time he will see you." Hussain had met Dr. Khan earlier and informed him of Nayar's impending arrival. The day after his arrival, Nayar was told that the interview was arranged for that evening. "For 70 minutes we spoke of the bomb and nothing else. He knew that every trip to Pakistan I had asked to see him and he also knew I was a journalist," says Nayar.

All this suggests that Khan had obtained clearance from higher authorities in which case, his pronouncements acquire special significance. Barely a month ago, on February 16, US Ambassador to Islamabad Dean Hinton delivered a hard-hitting speech to the Pakistan Institute of Strategic Studies which seemed like the first official public warning from the US about the path of Pakistan's nuclear programme since President Carter used the Symington Amendment in 1979 to suspend military and economic aid to Pakistan. "There are developments in Pakistan's nuclear programme which we see as inconsistent with a purely peaceful programme," declared Hinton, adding: "There are indications that Pakistan may be seeking a weapons capability." He went on to remind Pakistan of the 1985 Congressional legislation that requires the US President to annually certify that Pakistan does not possess a nuclear explosive device for the continuance of US aid and suggested that Pakistan sign the nuclear Non-Proliferation Treaty (NPT) as a precondition to the aid package.

Hinton's speech caused an immediate furore in the Pakistani media as well as the National Assembly and Islamabad was quick to lodge strong objections to his statements. The forceful message emanating from Islamabad in the wake of the Hinton speech was that Pakistan was not going to allow itself to be "browbeaten and pressurised" by the US in pursuit of its national objectives and that its "peaceful" nuclear programme was in no way tied to US military and economic aid. In that sense, Indian officials are convinced that Pakistan's military establishment embarked on a deliberate strategy of ambiguously informing the Reagan Administration that any extension of the waiver of the Symington Amendment has to be based on considerations other than Islamabad's nuclear quest.

Indian officials believe that Pakistan's strategy was three-fold. One, to reassure the Pakistani people that Pakistan is an independent country which is not tied to the coat-tails of Uncle Sam. There has been considerable public and media criticism recently of Pakistan being too subservient to US interests, and special concern has been expressed about the presence of three million Afghan refugees on Pakistani soil and its attendant socio-economic dangers. At an international level, the strategy was directed at the US Congress, the message being that if the US wanted to continue to use Pakistan as a conduit for arms supplies to the Afghan rebels and to provide them sanctuary, it would have to approve the aid package. The third target for the message was obviously New Delhi.

Mushahid Hussain echoes that viewpoint. "The message given by Dr. Khan is directed against all detractors of Pakistan's Islamic bomb. To the Indians, it is a 'hands off' warning at a time when Delhi has been carrying massive warlike exercises along our border. Concurrently, it is a signal to the Americans not to link the nuclear issue with the aid package since the former is now a fait accompli."

But a senior Foreign Ministry official pointed out: "I doubt that Islamabad would have embarked on such a strategy had a moralist like Carter been President. But with Reagan in the chair, they are quite confident that the U.S. needs them more than the other way round. The U.S. is also worried about the direct talks between Pakistan and the Soviets and the recent improvement in Pakistani-Soviet relations." Adds K. Subrahmanyam, director of the influential Institute for Defence Studies and Analysis (IDSA): "I think most people in India do not realise the extraordinary leverage Pakistan has gained vis-a-vis the U.S."

This has now been confirmed by last week's *Washington Post* story which revealed that the Reagan Administration has ensured that the $4.02 billion aid package to Pakistan is almost certain to be passed by the U.S. Congress later this month. In any event, as far as South Block is concerned, all past revelations in the American media regarding the path of Pakistan's nuclear programme—and its effect on the Reagan Administration—have rendered the annual certification by the U.S. President's a meaningless ritual. Examples:

In 1983, American Columist Jack Anderson, quoting CIA sources, reported that China was helping Pakistan in designing nuclear triggers.

In February 1985, Pulitzer prize-winning investigative journalist Seymour Hersh produced a documentary that conclusively proved that Nazir Ahmed Vaid, a Pakistani national posing as an innocent businessman, had illegally tried to smuggle 50 timing devices used to trigger nuclear bombs out of the U.S. at the behest of the Pakistani Government. The devices, called Krytrons, are such sensitive items that their sale is tightly restricted and their purchase by outsiders can only be okayed by the State Department. Vaid was tried, found guilty, given a mild sentence and deported to Pakistan.

In June 1986, John Scalley, a veteran reporter for ABC News, revealed that Paki-

stan had successfully tested a nuclear trigger.

In November 1986, star reporter Bob Woodward of Watergate fame, now managing editor of the *Washington Post*, announced that Pakistan had succeeded in enriching uranium to 93.5 percent (confirmed by Dr. Khan in his interview) and that it had tested the trigger in a high explosive device between September 1 and September 18, 1986. Woodward confirms that Pakistan is "two screw-driver turns away from the bomb".

On February 23, 1987, Leonard Spector of the U.S.-based Carnegie Endowment for International Peace and a leading nuclear specialist, released a report *based on U.S. Administration sources* that stated: "Pakistan now has the components for its first nuclear device . . . and has arrived at the nuclear-weapons threshold." The report said that Pakistan has enriched uranium to over 90 percent, tested a triggering device and acquired the capability to produce all of a nuclear device's components.

Meanwhile, officials of the US State Department's policy planning unit told India today that Hinton's warning speech in Islamabad was drafted by the State Department and was specifically aimed at a sop to the US Congress as a reassurance that the US Administration was keeping a close watch on Pakistan's nuclear programme and that any concern about it should not come in the way of the military aid package.

But the more immediate concern is in the Indian context. Having just recovered from a situation that took the two countries to the edge of war. Khan's claim that Pakistan has the bomb has triggered off considerable debate and public consternation. In both houses of Parliament, MPs from the ruling party and the Opposition raised a concerted demand that India should make a nuclear bomb to counter the Pakistani threat. In a snap poll conducted by a Sunday newspaper, a vast majority (69 per cent) of those interviewed believed Pakistan had the bomb and 68 per cent felt India should take a similar path.

And, though a wide range of scientists involved in India's nuclear programme interviewed by India today scoffed at Dr Khan's claims of having produced the bomb and warned against India being forced to "mortgage its future development and go in for a nuclear arsenal", all available evidence seems to indicate that they are ignoring reality. With its 13-year headstart in the nuclear race, India is still undoubtedly miles ahead of Pakistan in terms of technology. But Khan's boastful statements seem to confirm that they have considerably narrowed the gap.

The BBC Panorama team's documentary film The Islamic Bomb remains the best-researched investigation into how and where the Pakistanis acquired the material and technology to build the bomb (see box). starting with the top-secret meeting of Pakistani scientists in Multan convened by the late Pakistan President Z.A. Bhutto when he asked them how long they would take to build him a bomb. That meeting took place in January 1972, a full two years before India exploded a nuclear device at Pokharan in the Rajasthan desert in 1974. The film establishes that the money to finance Project 706, the Pakistan bomb, was provided by Libya in 1973, a year before the Indian nuclear explosion took place. Since then, Pakistan has employed an intricate network with the help of European middlemen and their own nuclear spies like Dr. Khan to acquire sensitive western technology and embark on its dual route to the bomb. Says Subrahmanyam: "Pakistan is aware that it cannot keep pace with India's defence medernisation programme. Nor can it depend on U.S. military support forever. It has decided that the cheapest defence operation is for it to go nuclear."

Presuming that Pakistan now has the bomb, what then are the options open to India? Indian intelligence sources are convinced that Pakistan is readying for a Pokharan-type nuclear explosion before the year is out. Edward Luttwak, the Pentagon analyst who predicted the Israeli attack on Iraq's Osirak research reactor, says that a nuclear detonation by Pakistan would be a warning that it could soon have a weaponised device. "During that intervening period, the pressure on India to act, to disarm the Pakistanis, would be enormous. There is always the possibility that the Indians will not allow Pakistanis to make the transition from a crude device to a bomb," he said.

Knowledgeable circles within the Indian defence and intelligence establishment confirm that Israel had made an offer to the Indian Government to bomb the Pakistani nuclear facility at Kahuta provided their F-16s were allowed to operate from an airfield in India. Successive Indian governments under Mrs. Gandhi, Morarji Desai and recently, Rajiv Gandhi, have rejected the offer though sources say the option remains open. But analysts and officials now discount the possibility of Israel via India or Indian Air Force Jaguars or Mirage 2000s launching a pre-emptive attack on Kahuta. "That would be criminally stupid," says Subrahmanyam, the most vocal advocate of the bomb, who recently chaired a UN committee on nuclear deterrence. "We can destroy Kahuta but it won't hurt their programme," he insists.

Pakistan is well aware of that particular threat. Khan stated that "India knows what price it would have to pay for attacking Kahuta. In any case, the plant is well protected and we have not put all our eggs in one basket," indicating that Pakistan may have other secret installations. Last week, Pakistan Prime Minister Mohammed Khan Junejo issued a stern warning that Pakistan "would go to war if Kahuta was bombed". In fact, defence analysts say that India is much more vulnerable because it has a number of plutonium-fuelled reactors which if bombed, would spread radio-activity over heavily-populated areas. An attack on the Dhruva reactor at Trombay would render the entire city of Bombay unliveable. In any event, both countries have recently signed an agreement eschewing an attack on each other's nuclear facilities.

The other option is for India to go ahead and build the bomb. Though top government officials interviewed by India Today discount the possibility, they also admit that were public opinion and domestic political compulsions to coincide, it cannot be ruled out completely. Written in the IDSA journal, top nuclear expert R.R. Subramaniam, who has recently joined the Ministry of External Affairs (MEA), had said: "If Pakistan succeeds in conducting a nuclear test, popular opinion in this country will not tolerate a government which does not take immediate steps to overtake Pakistan in nuclear-weapons capability. No one expects Indian leaders to announce beforehand what steps they would take, but anyone who believes that after a Pakistani nuclear test India could continue to remain non-nuclear weapons-wise is totally out of touch with reality." In fact, there are many analysts inside and outside the country who believe that India, notwithstanding its protestations to the contrary, already has the bomb. Khan himself said that "India has carried on with its weapons research programme and they now have a much bigger bomb" (The Pokharan device was around 12 kilotons). Leonard Spector, in his latest report, notes that "India has gone to extraordinary lengths to develop a supply of plutonium beyond the reach of international inspection and control".

And, some Indian analysts argue that the country's massive nuclear energy programme was always intended to fuel a weapons arsenal. The leading proponent of this view is Professor Dhirendra Sharma of Jawaharlal Nehru University and convenor of the Committee for a Sane Nuclear Policy. In his most recent book, The Indian Atompower and Proliferation, Sharma states that "the policy in India has shifted secretly from one of developing nuclear energy for avowedly peaceful purposes to one including political and military aims". The burden of Sharma's argument is that Indian nuclear scientists have opted for pressurized heavy water reactors (PHR) which produce plutonium, the most convenient fissile material for a bomb. It was a plutonium device that India exploded in 1974.

However, scientists of the Atomic Energy Commission (AEC) say the choice of PHR technology does give India a weapons option but this is not the reason why it was selected. Pressurized heavy-water reactors fuelled by Uranium 238 are part of the AEC's long-term plan to use indigenously available fuels to generate a large chunk of the nation's electric power. "We have to have a base of reactors of the pressurised heavy water type to produce a certain output of plutonium which will fuel our fast breeder reactors. The plutonium-based fast breeders will irradiate thorium (which is available in large quantities in India) and produce Uranium 233, which can then be put back into the PHR to complete the fuel cycle," says N. Srinivasan, former head of the AEC's heavy-water projects.

In fact, after the hawkish K. Subrahmanyam left the Defence Ministry, the Indian Government appears to have no identifiable bomb lobby. Subrahmanyam himself says that, going by public pronouncements, the only bomb lobby he can identify is the Army Chief General K. Sundarji. In the Order of the Day he issued on taking over as chief of army staff on February 1, 1986. Sundarji highlighted the army's concern abour the "nuclear weapon capability of our potential adversaries". Asking the army to be prepared to face both a conventional and a nuclear threat. Sundarji said: "Our government is aware of the threat and I can assure you that if a war is forced upon us they will not make us fight our adversary at a disadvantage". Sundarji's concern goes back to the days when, as head of the College of Combat, he wrote a well-received paper on nuclear asymmetry. In fact, the College of Combat's Combat Papers 1 and 11 clearly state that "conventional superiority vis-a-vis nuclear Pakistan would be no effective deterrent".

Apart from frequent we-are-keeping-our-options-open statements by the prime minister and the minister for external affairs, Sundarji's remarks are the first real admission that India would not allow itself to be caught in a situation of nuclear asymmetry vis-a-vis Pakistan. Though neither Sundarji nor anyone else in the Government may

openly announce it, the army chief's assurance clearly means that once Pakistan fabricates a nuclear weapon, India will have no other option. Political analyst Hari Jaisingh says: "The Congress(I) is keeping its options open. The BJP's stand is crystal clear. It wants a swadeshi bomb. Even the Janata Party has said the country cannot afford to be caught unguarded. The leftist parties, notwithstanding certain reservations would by and large, go along with the bomb lobby. In fact, barring certain groups of pacifists, any decision by Rajiv Gandhi's Government to publicly commit the country to the nuclear (weapons) path will have popular support."

The Indian bomb lobby has always emphasized certain obvious dangers in a nuclear-armed Pakistan as against a non-nuclear-armed India. These include the fact that:

a nuclear-armed Pakistan will project an image of power far in excess of India;

it will naturally assume the leadership of the Islamic world, attract oil money and the loyalty of Muslims beyond its borders, including in India;

Pakistan can afford to take more risks with India. It will be seen as a far safer haven for Indian extremist forces;

it will signify a weak leadership in India, leading to domestic and political upheavals and reduce India's clout with other neighboring countries;

the cost of India not going nuclear will be to put all New Delhi's eggs in the Soviet basket, damaging India's international image and rendering it critically vulnerable in defence terms should the Soviets back out for their own reasons.

But if India does decide to switch nuclear routes, how long will that take? And what will be the cost? Even experts do not agree on the time-frame, primarily because this is the most closely-guarded secret in the Government. While a Defense Ministry scientist said perfecting a *deliverable* nuclear weapon would take anything from six to eight months. K. Subrahmanyam feels that from the point of decision, it would require five to six weeks.

The relevant issue at this moment is the availability of a delivery system, and the related question about the size of the device. If India has been working at perfecting a weapons capability, then it would now have, or be in a position to fabricate, a sophisticated, small-size tactical nuclear weapon weighing around 1,000 lbs or less which could be carried to the target by the IAF's Mirage 2000s and Jaguars.

The same applies to Pakistan, only more so. It is more likely that Pakistan's device is large, crude and heavy and the Pakistani Air Force (PAF) will therefore be hard put to deliver it over a target with available delivery systems. For this reason, Pakistan has been trying to get the F16C from the US. The F16C, which has a strengthened centreplate pylon capable of carrying a weight of 4,000 lbs, is likely to be Pakistan's preferred delivery system. Alternatively, warned a senior officer of the IAF, Pakistan could modify some of its longer range surface to air (SAM) missiles for a surface-to-surface (SS) role which would give it a range of up to 200 km, enough to threaten a large number of border towns with destruction.

India, however, does not lack a delivery system for carrying heavier bombs. This is ensured by the ongoing programme to perfect a range of rockets capable of putting satellites in orbit. These rockets could also carry nuclear warhears to any target in Pakistan. The Defense Ministry's missile-testing range at Baliapal in coastal Orissa could also possibly be meant to test missiles capable of delivering nuclear warheads. Says a top Defense Ministry scientist: "Deterrents must be viewed not by numbers but by the certainty of retribution. A credible arsenal depends not on numbers but on the range and accuracy of the delivery systems. As far as Pakistan is concerned, we have to ask the question: Will Pakistan survive if two of its major cities like Lahore and Rawalpindi are destroyed? That would be unacceptable damage as far as Pakistan is concerned."

But the cost for India to take the bomb route—financial annd diplomatic—could be astronomical. According to experts, an effective weapons programme of 150 or so warheads in 10 years would cost around Rs 200 crore a year to start with, increasing to Rs 600 crore a year later. However, a traditional rule of thumb in the West is to compute the cost of a nuclear component at 10 per cent to 12 percent of the total defense expenditure. In India 12 percent of the 1987-88 defense budget of Rs 12,000 crore, comes to Rs 1,440 crore a year. Bhabani Sengupta in his book *Nuclear Weapons—Policy options for India* puts the cost of a second-generation nuclear deterrent for India at Rs 15,000 crore. But, he adds: "The cost of conventional defence cannot remain at the current level if Pakistan goes nuclear. The armed forces will, if nothing else, have to be equipped to fight a nuclear war. That means that all the western front divisions will have to be mechanised, and that alone would cost Rs 10,000 crore over 10 years."

Bhabani Sengupta and K. Subrahmanyam, however, agree on one vital point; that a situation in which Pakistan has the bomb and India doesn't, would be unacceptable to India. Says Sengupta: "We could never tolerate a Pakistan with nuclear weapons if India has none. No government in India could resist public pressure to respond in kind to a nuclear Pakistan. India will therefore inevitably make nuclear weapons." Subrahmanyam is equally direct. "We are hostages to Pakistan on the nuclear issue," he says. "It (Pakistan) has the bomb and we don't, we can be subjected to nuclear blackmail. They can make us do what they want."

Most advocates of the bomb, however, view nuclear weapons for India as an insurance policy with costly annual premiums but long-term security. Officials in the Defence Ministry and MEA are not prepared to commit themselves on what India's response will be. But in off-the-record conversations, the general consensus is that India will most probably adopt a policy of covert nuclearisation like that followed by Israel and South Africa. In other words, publicly deny the bomb but go ahead and obtain it and covertly let potential adversaries know you have it. "In fact, do exactly like Pakistan did but less clumsily," is how one official described it.

The other option, for the two countries to sign the NPT, also seems remote. India has strongly opposed the NPT on the grounds that it is heavily biased in favour of the nuclear powers and because countries like Israel and South Africa carry on their nuclear programmes unhindered. Pakistan has refused to sign till India signs. The logical option is for India and Pakistan to come to a mutual agreement on the nuclear weapons issue. Even Dr Kahn told Nayar; "You have it (the bomb) and now we have it. Now you must come to a *faisla* (understanding) with us." But again, India is hardly likely to sign a nuclear weapons agreement that does not include China.

The result is a critical stand-off. By last fortnight, it was clear that India was keeping its nuclear card close to its chest and any decision would have to wait till the current state elections were over. When India set off its underground nuclear blast in 1974, the code phrase used to announce its success was "The Buddha is smiling". All that can be said regarding the Indian response is that the Buddha is no longer smiling but, in fact, looking decidedly worried. — Dilip Bobb and Ramindar Singh.

[From the London Financial Time, April 30, 1987]

COLOGNE COMPANY RAIDED OVER SUPPLY OF NUCLEAR EQUIPMENT PLANS TO PAKISTAN

(By Simon Henderson)

West German customs officers have raided a Cologne-based engineering company while investigating the alleged export of plans to help Pakistan build a uranium enrichment plant suitable for making nuclear weapons.

More than 20 officials, including two state attorneys, took part in simultaneous raids on Monday at the offices in Cologne of Leybold-Heraeus and its factory at Hanau outside Frankfurt. The home of one of its directors was also searched.

Leybold-Heraeus is an important contractor to the Urenco consortium—jointly owned by Britain, West Germany and the Netherlands—which operates high-speed centrifuges to produce low-enriched uranium for use in nuclear power plants.

There was a security scandal at Urenco in the late 1970s when it was realised that a Pakistani scientist, Dr. Afedel Qadar Khan, may have had access to centrifuge secrets while working for a Dutch subcontractor several years earlier. A parliamentary inquiry was held and security was tightened.

Dr. Khan now heads a facility at Kahuta outside Islamabad where Western officials believe Pakistan is trying to produce high-enriched uranium suitable for nuclear weapons. A Dutch attempt to prosecute him for trying to acquire information after his return to Pakistan failed on a technicality.

Western officials believe that they have discovered a Pakistani attempt to buy virtually an entire enrichment plant for Kauta, except for the centrifuges which Pakistan can now make itself. The plant would dramatically expand Pakistan's ability to produce nuclear weapons, to perhaps 10 per year. Last year, U.S. officials acknowledged that Kahuta could produce bomb-grade material, but only in small quantities.

The Customs inquiry began in early 1986, when the Swiss authorities disrupted the export of autoclaves used to heat solid uranium hexafluoride, converting it into a gas which is then passed through centrifuges in an enrichment plant. Several were successfully exported via France.

Experts at Uranit, the West German arm of Urenco located at Gronau, found that some of the plans were for components of a design which only started operation at Gronau at the end of 1985. Others appeared to be of a special design, part of which seemed intended to make highly enriched uranium.

Leybold-Heraeus is making no comment, other than to admit its premises were searched. Dr. Khan says he was not involved in any attempt to import autoclaves and that Pakistan's nuclear programme is only for peaceful purposes.

[From the London Sunday Times, July 19, 1987]

FOILED: BID TO BUY STEEL FOR A-BOMBS

(By Mark Hosenball, Washington)

A London businessman and a retired Pakistani general are named in American court documents as suspected participants in a plot to illegally export nuclear bomb materials to Pakistan.

A Canadian businessman of Pakistani origin was remanded in custody last week by an American court after being arrested as a key member of the scheme.

President Zia of Pakistan has always denied that his country has a nuclear-weapons programme, but there have been many reports that Pakistani scientists are far advanced with such a programme and have used smuggled materials and scientific data in their research.

An American customs invetigator, in a sworn statement obtained by the Sunday Times, alleges that last November the London businessman, Mohammed Iqbal Fareed, got in touch with a Pennsylvanian company seeking to buy 16 tons of a special metal called maraging steel. This metal is used in the centrifuges that are needed to make nuclear bombs.

According to the customs document Fareed told the Pennsylvanian firm, Teledyne Vasco, that the steel would be used in "high speed turbines and compressors". But when he asked Teledyne to use a misleading description of the steel when applying for an American export license the company refused and Fareed's inquiry was dropped.

The document says that Fareed told Teledyne that his London company, Burkin Trade Links, was affiliated with an unnamed comapny in the Toronto suburb of Woodland.

This town is also the location of AP Enterprises, whose proprietor, Arshad Z Pervez, was arrested by customs in Philadelphia 10 days ago on charges of trying to buy and illegally export 25 tons of the same special steel to Pakistan. Pervez was denied bail and is still in an American jail.

Customs' investigators began to investigate Pervez last November after he approached a Pennsylvanian company about buying maraging steel.

The steel company informed U.S. Customs about Pervez's inquiries. An undercover "sting" operation began with customs agents posing as steel executives and government export control bureaucrats.

During the nine-month investigation, Pervez told undercover agents that he was buying the steel for Inam Ul-Haq of Lahore, whom he described as a retired Pakistani brigadier now working for the multinational corporation of 24-B Gulberg, at Lahore II, Pakistan. The building is a house in the city's most expensive residential area.

When approached by the Sunday Times in Lahore yesterday, the brigadier denied all knowledge of Pervez. "I don't know anything about the matter," he said, banging down the telephone.

After Pervez's arrest, Canadian customs raided his company's office and seized documents which indicated that the company had been interested in nuclear materials for five years.

They also found evidence of dealings between the Canadian firm and Brigadier Ul-Haq.

Fareed has been convicted before, for gun running. According to David Hattem, an assistant federal prosecuting-attorney in Brooklyn, New York, Fareed was arrested in September 1985 by undercover U.S. Customs' agents after an earlier "sting operation" when they discovered that he was trying to buy weapons and ammunition for Iran.

Hattem told the Sunday Times that in late 1985 Fareed pleaded guilty to charges of conspiring to export 100,000 rounds of 106mm ammunition and 1,000 50-calibre machineguns to Iran. He served six months in prison and then returned to Britain.

Fareed, 55, is a Canadian national but has strong contacts in Britain. Since the mid-1970s he has run Burkin Trade Links in London's Regent Street. Yesterday a person who answered the telephone at the company's office said Burkin Trade Links had gone into liquidation and the premises now belonged to a firm called Visorbeck with which Fareed was connected.

The new American revelations are the latest in a series of disclosures about Pakistani attempts to obtain nuclear bomb materials. Last April, customs in West Germany raided a Cologne company in connection with the alleged export of plans to help Pakistan build a uranium enrichment plant suitable for making nuclear bombs.

An American nuclear-weapons expert says the evidence from the German and American investigations indicates that the Pakistanis have a highly-sophisticated and well-directed programme for obtaining bomb materials from Western countries.

Mr. WILSON. Mr. President, there is certainly no objection by the majority. We join the Senator from Ohio in his clearly expressed intent.

Mr. PELL. Mr. President, I strongly endorse the initiative of the Senator from Ohio. He made an excellent presentation of the problem.

Pakistan is treating the United States with disdain. In its pursuit of a nuclear weapons capability, Pakistan has brazenly broken its promise to the United States and has flouted our laws.

Most recently, a Pakistani agent was arrested in Philadelphia for attempting to export illegally maraging 350 steel for use in Pakistan's nuclear program. Pakistan's action violated an explicit pledge not to acquire nuclear technology in the United States.

So far the administration has responded to Pakistan's actions with excuses and pleas for understanding. Pakistan has taken advantage of our forebearance. Patently, the soft approach has not worked.

Under Secretary Michael Armacost will be in Pakistan on Sunday. He will be seeking verifiable Pakistani assurances that it will not develop nuclear weapons or the fissile material for such weapons. This resolution will give Mr. Armacost useful support.

Pakistan must be made to understand that the United States expects it to keep its commitments. This resolution sends a signal of our resolve.

Mr. BRADLEY. Mr. President, I believe this resolution is one of the most important measures to come before the Senate. The role of Congress in foreign policy is often reactive. We respond with approbation or dismay to events that have already happened. Today, we are taking concrete steps to avert developments, which, left unchecked, could precipitate a nuclear arms race in south Asia, embroil the United States in a nuclear crisis, and result in an unfortunate and unwanted disruption of our relationship with Pakistan.

If this resolution achieves its purpose, we will have made a major contribution to promoting stability in a politically volatile region, while cementing our friendship with Pakistan.

Let me explain what the resolution does. Put simply, it says to Pakistan that we look to them to define what is in their self interest and to act accordingly. The resolution does not dictate anything. It does not impose demeaning terms or conditions on another sovereign state. At the same time, it avoids what I believe has been a weakness and a source of friction in our previous efforts in this area.

In the past, we have put ourselves in the position of having to choose between two desirable, but conflicting, goals: renewing security assistance to Pakistan on the one hand, and limiting the spread of nuclear weapons on the other. Frankly, it is in our interest to have both. We want to aid Pakistan, but we do not want a nuclear arms race. Make no mistake: living in a nuclear armed crowd will surely be very threatening and it is not a development in which we should lightly acquiesce. Still, it is not in our interest to sacrifice either of these important policy goals. Yet in the past, that is what we have done. And in the process, we have put ourselves in the position of seeming to dictate to Pakistan.

Pakistan has, understandably, found this offensive. Pakistan is a sovereign state, capable of figuring out where its best interests lie, and this resolution is intended to encourage Pakistan to do just that. Whatever Pakistan chooses, we must live with. And so must they.

Let me say, Mr. President, that I have the deepest respect for Pakistan and for its determined stand against Soviet aggression in Afghanistan. Pakistan's support for the Afghan resistance has imposed heavy burdens upon its people, burdens they have borne with courage and dignity. Those of us who share Pakistan's commitment to a free Afghanistan—and I count myself among them—must also do our part. This means providing economic and security assistance to help Pakistan meet its legitimate need for self-defense, withstand Soviet intimidation, and continue to champion the Afghan cause.

At the same time, Pakistan and the United States share long-term interests in the stability of the subcontinent and in Pakistan's economic growth. There is growing concern that both these interests will be jeopardized by Pakistan's further acquisition of the material as well as the technolo-

gy for nuclear explosives. Notwithstanding Pakistan's assurances that its nuclear program is intended solely for peaceful purposes, some of its activities seem inconsistent with these assurances. Unfortunately, these activities are straining our relationship.

The purpose of this resolution is to suggest a way out of this dilemma so that we can refocus the United States-Pakistan relationship on promoting our mutual interest in stability and growth. The resolution states that the most effective way of accomplishing this would be for Pakistan to make an unequivocal commitment to forgo both the making or testing of a nuclear bomb and the production or stockpiling of nuclear materials that could be readily turned into weapons. Such a commitment would demonstrate Pakistan's genuine support for a nonnucler peace, focus international concern on India's unsafeguarded nuclear activities, facilitate efforts to establish a nuclear weapons-free zone on the subcontinent, and remove the major source of strain on the United States-Pakistan relationship.

Why is it in Pakistan's interest to follow this course? I believe there are several reasons.

First, Pakistan has already achieved the fundamental objectives that have motivated its nuclear research. It has satisfied itself that it could do what India did in 1974. Moreover, the rest of the world now understands that it is Pakistan's deliberate restraint, not its lack of ability or means, that keeps it from duplicating India's unnecessary display of nuclear power. And Pakistan has gained respect for rejecting the temptation to resort to a "peaceful nuclear explosion."

However, there is still widespread concern over Pakistan's intentions. Now that Pakistan has achieved its main nuclear objectives, both our countries should place a very high premium on avoiding the misunderstandings and suspicions of the past. An unequivocal disclaimer that Pakistan has any intention to produce or stockpile unsafeguarded nuclear materials that are readily convertible to nuclear weapons would go a long way toward accomplishing this.

Pakistan has already declared that it is committed to a peaceful nuclear program. At the same time, there is no longer any doubt about Pakistan's capacity to make one or two nuclear bombs if it sees a security requirement to do so. But, acting in its own national interest, Pakistan has refrained from making or testing a nuclear explosive device. Yet, in the world's eyes, there is a question as to Pakistan's definition of "peaceful" and its future intentions.

These concerns are not unfounded. Pakistan has engaged in activities that have equipped it with the technology and components for nuclear explosive devices. This is beyond dispute. And further activities of this sort would create the basis for an arsenal of nuclear weapons, belying Pakistan's own claims that its program is peaceful.

In the past, Pakistan has justified these activities by invoking India's example. It is true that India's nuclear activities raise similar suspicions and pose similar dangers. India's stockpiling of unsafeguarded nuclear materials is a serious concern. And those of us who are committed to the goals of nonproliferation are deeply disturbed by, and critical of, India's activity in this area. India's explosion in 1974 and subsequent stockpiling of unsafeguarded nuclear material have increased political pressures in Pakistan to seek a nuclear deterrent. Few would argue that it has been a serious mistake for India to have gone this route. It is unfortunate that India's leaders cannot see this, but it would be tragic if Pakistan repeated India's errors. One should learn from the mistakes of others, not emulate them. And were Pakistan to attempt to match India's capabilities to produce or deploy nuclear weapons, the costs to all of us, including Pakistan, would be very high.

This resolution is premised on the understanding that Pakistan must and will do what it perceives to be in its national interest. So will the United States. But the resolution also says that the Congress hopes that Pakistan and the United States will see that we share an overriding mutual interest that can best be promoted by Pakistan's decision to comply with its own stated policy, namely that its nuclear program will be strictly peaceful.

IT'S TIME FOR PAKISTAN TO CHOOSE

Mr. BYRD. Mr. President, Pakistan is under siege. Not only has it spent the past 7½ years countering over 100,000 Soviet troops in Afghanistan, but in recent weeks, it has been stunned by terrorist bombings, ethnic riots, and violence spilling over its borders from Iran, India, and Afghanistan.

I have great sympathy for Pakistan. In the face of the Soviet invasion of Afghanistan, Pakistan has been a staunch supporter of the Afghan freedom fighters. Pakistan has willingly harbored over 3 million Afghan refugees who fled from Soviet terror and destruction. Pakistan has been a staunch and invaluable ally of the United States.

But the close and mutually supportive relations between the United States and Pakistan are being jeopardized by Islamabad's drive to develop a nuclear capability. Three years ago, Pakistan promised the United States that it would not enrich uranium beyond the low level required to run civilian power reactors. Since then, there has been much evidence to suggest that Pakistan is pushing the enrichment level up to weapons grade and is expanding its weapons capacity.

Earlier this month, a Pakistani native was arrested in Philadelphia and then indicted for attempting to illegally procure and export 25 tons of highly specialized steel from the United States to Pakistan. Pakistani officials have called it a rogue operation for which the Government bears no responsibility. I certainly hope that is the case.

But my confidence in assurances by the Government of Pakistan that it is not trying to build nuclear weapons and that it is not involved in attempts to smuggle nuclear materials is eroding. Shortly after the Philadelphia arrest, two Americans and a Hong Kong businessman were indicted in California for illegally exporting to Pakistan computer equipment that can be used to make nuclear weapons.

These are not isolated incidents. In 1984, a Pakistani citizen was arrested for trying to smuggle krytrons, the electronic switches that can trigger nuclear bombs, to Pakistan.

This weekend, Under Secretary of State Armacost arrives in Pakistan to make it clear that Pakistan's verbal assurances must be matched by concrete action. This resolution, which I strongly support, is intended as a firm message that the Senate backs the administration's efforts.

I do not want to see aid to Pakistan cut off. But the time has come for Pakistan to choose. The Government of Pakistan promised that it would not enrich uranium at a level higher than 5 percent. It has repeatedly declared that its nuclear facilities will be used for peaceful civilian purposes only. Recent events cast doubt on Pakistani promises.

The time has come to choose. If it wants to build nuclear weapons, under U.S. law, it cannot have U.S. foreign assistance. It is time for the Government of Pakistan to take concrete action to bring its nuclear program in line with its assurances.

Mr. President, I support this resolution and urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. HUMPHREY. Mr. President, as the Senator from Ohio has stated, the wording of this resolution has been under negotiation among interested Senators now for several days. There has been a very careful and intense effort to arrive at wording on which we can all agree and I believe we have. The wording was chosen very carefully.

I would point out that the Senate is not making any new demands upon the Government of Pakistan, simply calling upon the Government of Pakistan to make good on promises which it has already extended in the past years.

Mr. President, there has been a great deal of care involved in the wording of this resolution because Senators recognize the important role that Pakistan is playing today in standing as a bulwark against Soviet imperialism in South Central Asia.

Senators know some 120,000 Soviet troops armed with the most modern weaponry, including jet fighters, attack helicopters, tanks, and artillery, chemical and perhaps biological weapons, as well, are being used to occupy Afghanistan which once stood as a bulwark between the Soviet Union and the plains of India and Pakistan.

As things now stand Afghanistan is no longer that bulwark. We hope that ultimately, and I believe ultimately the Soviets will withdraw in the face of brave and continued resistance by the people of Afghanistan. But in the meantime there is no country that is more supportive of the Afghans than Pakistan. There is no country that I believe in the world playing a more principal and courageous role in standing up to Soviet brutality and bullying and criminal behavior of every kind than Pakistan.

For her trouble, Pakistan is the target of almost daily aerial attacks by aircraft of the puppet Government of Afghanistan, some of them we believe flown by Soviet pilots. But irrespective of the nationality of the pilot, the carnage wrought in Pakistan is tragic.

Last year the Soviet puppet regime aircraft violated Pakistan airspace 757 times and of those 256 involved outright release of weapons, that is to say attacks, in which 45 civilians were killed and 77 wounded. This year the situation is very much worse. Hundreds already this year have been killed and wounded, innocent civilians, by attacks along the border.

The Soviets and their puppets further have supported deadly acts of terrorism within Pakistan. Last year there were 233 wanton acts of sabotage resulting in 162 deaths and more than 500 wounded. This year the terrorism continues and it is worse, as most recently witnessed by a devastating car bomb in Karachi that killed more than seven people earlier this month.

Quite apart from her courageous role or vital role, very valuable role in supporting the people of Afghanistan against the Soviet invasion, Pakistan is a country important in her own right, important to the security of that part of the world, important indeed to America's security if we value the oil resources of the Middle East, if we value the independence of Pakistan as a nation which stands in the way of the historic Soviet lust for a warm water port on the Persian Gulf.

Pakistan is located near the apex of the funnel that leads into the Persian Gulf. Were Pakistan to fall in Soviet hands it would be a disaster for the West. Were Pakistan to be taken over by a government unfriendly to the West, it would likewise be a disaster of almost equal proportions.

So we must proceed with great caution and care and I believe that we have.

Presently the security assistance, economic and military assistance for Pakistan is pending. It is an important question of the President and the military assistance program of that package is now threatened by renewed concern over Pakistan's military nuclear program.

Mr. President, we had better continue to be very careful as we proceed. There is not one Senator who favors nuclear proliferation, not one Member of Congress. The question we must ask is this: If, by our actions, such as the withholding of military assistance we undermine Pakistan's confidence in our commitment to her security, is that likely to make Pakistan more or less inclined to opt for force multiplier weapons, is that more or less likely to result in Pakistan going for the military nuclear option? I think the answer is obvious.

Pakistan is in a difficult situation. She has been in three wars with India, a nation of much larger resources, much greater military capability. She has concern that now her neighbor to the north is occupied by the Soviet Union with the effects increasingly spilling over into Pakistan, not only military attacks, not only sabotage but the whole matter of the burden which 3 million Afghan refugees within the borders of Pakistan represent in the way of social difficulties, economic difficulties, political difficulties.

And let us remember, Pakistan, in a great humanitarian gesture, is sheltering upwards of more than 3 million Afghan refugees who, incidentally, are not confined by barbed wire fences, who instead are free to move about to engage in businesses, to sell their labor.

Pakistan has done a magnificant job, despite all of her own enormous problems, has done a magnificent job in harboring and sheltering this refugee population which is now the largest single refugee population in the world. So we must be very careful in how we proceed.

I think it is well that we adopt this resolution tonight to undergird the mission of Secretary Armacost. But I want to point out the wording has been very carefully chosen. I want to point out again we are not making any new demands on Pakistan in this resolution. We are expressing our wish, our demand, that Pakistan make good on her earlier promises.

I want also to call attention to the fact, finally, that this resolution is quite balanced with respect to India and Pakistan. This is not a resolution that mentions only Pakistan, because the proliferation problem is a regional problem. We must recall that it was India which exploded a nuclear weapon, not Pakistan.

And so in two of the whereas clauses we specifically mention India and in the third and last resolve clause we also mention India. And we call upon India and Pakistan to simultaneously accede to the Nuclear Nonproliferation Treaty.

I want to make the point that President Zia, in meeting with Prime Minister Gandhi, has offered to do just that and more, provided that India will do likewise. But India has refused, and that is important to take into account in our deliberations over the next several months.

So I support this resolution. I have to say with all modesty that I have secured some changes which I think render the resolution more balanced, more consistent with our national interests. And for the cooperation of my colleagues in that respect, I offer my thanks.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the resolution?

Mr. GLENN. Mr. President, I want to express my appreciation to the distinguished Senator from New Hampshire for his efforts on this and for his cooperation and that of his staff. He was very cooperative in working out the language on this so it was more satisfactory and added some things that I think were very important to this resolution. So I wanted to make sure that he got full credit for that.

I think, Mr. President, we find ourselves in somewhat of a dilemma, quite frankly. I want to see aid continue to flow through Pakistan to Afghanistan. I share the same concerns as expressed by the distinguished Senator from New Hampshire. No one wants to see our aid to the Afghan resistance fighters, who are doing such a magnificent job with very little help, cut back. Most of the arms there flow in through Pakistan, and we do not want to see that end. We could term this aid a short-term interest.

But right along with that we have a long-term interest that has been a commitment of this country to see that nuclear nonproliferation does not go on. And pursuant to that we sponsored the Nonproliferation Treaty. We have 132 non-nuclear-weapon states that have signed up under the Nonproliferation Treaty and said they would forswear the development of nuclear weapons if we cooperate with them. We have not seen that kind of cooperation out of Pakistan.

I do not want to see a nuclear weapons race on the subcontinent. India some years ago, in 1974, to be exact, had what they termed a peaceful nuclear explosion. Well, a bomb is a

bomb is a bomb is a bomb by any other means or any other name. At that time, Pakistan's President Bhutto said that Pakistanis would "eat grass," to use his words, to get a bomb so they could be the equal of India. They have been pursuing their bomb since that time, and this progress is what we address in this resolution today.

So we are on the horns of a dilemma. We want to see Afghan freedom fighters get the help that we know that they deserve, and to provide this aid, we need Pakistan's help.

At the same time, we have a long-term responsibility to live up to our commitments to the 132 other non-nuclear-weapon nations that have signed up on the nonproliferation treaty. So it is a dual interest here and it is a difficult balance.

I hope, right along with the Senator from New Hampshire, that India can heed some of the words in this so that we do get a balance. Nothing would be better than declaring that part of the world a nuclear weapons free zone.

Meanwhile, the other nations of the world have put their faith in the United States to take the lead in trying to scale down the weapons belonging to the superpowers. At long last, maybe sometime soon we have a little bit of progress in that area.

We all wish we could go back to the days of Lilienthal and Baruch, perhaps, and put things nuclear under some sort of international aegis of one kind or another, but we cannot unring that bell, to put it in other terms.

So we are trying to make the best in two areas, trying to scale down nuclear weapons among the superpowers and, at the same time, preventing the spread of weapons to more and more countries around the world until the whole thing gets completely out of control. And we do not want to see us get to the state when, one of these days, any nation that wants a nuclear weapon will be able to get one. When that day comes, we will see nuclear weapons being utilized in little border wars or incidents that we, at least, would think are not worthy of the use of such expenditure of weapons of that type.

So, I congratulate the Senator from New Hampshire again and thank my colleagues for their cooperation in helping us work this out in getting it to the floor tonight so it can be useful in the negotiations that will be going on in Islamabad in just a few days.

Mr. GLENN. Mr. President, if there is no further debate I would move to——

Mr. HUMPHREY. Mr. President, before the Senator does that, may I just briefly thank the Senator for his kind comments and likewise thank the Senator for his openmindedness and graciousness, and patience—most of all patience which he exhibited during the sometimes frustrating negotiations over some of the language.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the resolution.

The resolution (S. Res. 266) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 266

Whereas production of weapon-grade nuclear materials in Pakistan and India constitutes a threat to regional and international security; and

Whereas the United States desires to maintain a long-term security partnership with Pakistan; and

Whereas the greatest threat to this partnership arises from activities in Pakistan's nuclear program that are viewed as being inconsistent with a purely peaceful program; and

Whereas a Pakistani choice to eliminate this threat would serve our mutual interests in promoting stability in South Asia and assisting the Afghan people; and

Whereas the Government of Pakistan has repeatedly stated that it is not producing weapon-grade nuclear materials, and that it would respect U.S. nuclear export control laws; and

Whereas information exists that Pakistan is producing weapon-grade nuclear material; and

Whereas in the absence of any other action by the Congress or the President, United States laws require a cessation of assistance in the event of violations of the nuclear export control laws of the United States; and

Whereas further U.S. assistance to Pakistan or India in the face of continued violations would undermine U.S. efforts to contain the spread of nuclear weapons, including U.S. commitments to the 132 non-weapon-state parties to the Nuclear Non-Proliferation Treaty: Now, therefore, be it

Resolved That:

(1) The Senate strongly supports the President in his forthcoming efforts to gain Pakistan's compliance with its past commitments, including commitments of record, not to produce weapon-grade nuclear materials.

(2) The Senate strongly urges the President to inform Pakistan that Pakistan's verifiable compliance with these past commitments is vital to any further United States military assistance.

(3) The Senate urges the President to pursue vigorously an agreement by India and Pakistan to provide for simultaneous accession by India and Pakistan to the Nuclear Non-Proliferation Treaty, simultaneous acceptance by both countries of complete International Atomic Energy Agency safeguards for all nuclear installations, mutual inspection of one another's nuclear installations, renunciation of nuclear weapons through a joint declaration of the two countries, and the establishment of a nuclear weapons free zone in the Sub-continent.

ORDER TO PRINT DEBT LIMIT EXTENSION MEASURE

Mr. BYRD. Mr. President, I ask unanimous consent that the debt limit resolution (H.J. Res. 324) be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader, Mr. WILSON, if Calendar No. 208, S. 1068, has been cleared on his side of the aisle.

Mr. WILSON. Mr. President, it has. We are ready to proceed.

INTERLOCKING DIRECTORATES AND OFFICERS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 208.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1068) to amend the Clayton Act regarding interlocking directorates and officers, with an amendment.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment. On page 2, line 22, strike "annual average," and insert "annual."

So as to make the bill read:

S. 1068

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Clayton Act is amended to read as follows:

SEC. 8. (a)(1) No person at the same time shall be a director or officer of any two corporations, each of which has capital, surplus and undivided profits aggregating more than $10,000,000, as adjusted pursuant to this subsection, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to subtitle IV of title 49, United States Code, if such corporations are by virtue of their business and location of operation, competitors so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws.

"(2) Notwithstanding the provisions of paragraph (1), simultaneous service as a director or officer of two corporations shall not be prohibited by this section if (A) the aggregate competitive sales of either corporation are less than $1,000,000, as adjusted pursuant to this subsection, (B) the aggregate competitive sales of either corporation are less than 1 percent of that corporation's total sales, or (C) the aggregate competitive sales of each corporation are less than 4 percent of that corporation's total sales. For purpose of this paragraph, 'aggregate competitive sales' means the aggregate gross revenues for all products and services sold by one corporation in competition with the other, determined on the basis of annual gross revenues for such products and services over the last completed fiscal year. For purposes of this section, 'total sales' means the aggregate gross revenues for all products and services sold by one corporation over the last completed fiscal year.

"(3) The eligibility of a director or officer under the provisions of paragraph (1) shall

be determined by the capital, surplus, and undivided profits of each corporation at the end of that corporation's last completed fiscal year.

"(4) For purposes of this section, the term 'officer' means an officer elected or chosen by the Board of Directors.

"(5) For each fiscal year commencing after September 30, 1987, the $10,000,000 and $1,000,000 thresholds in this section shall be increased (or decreased) as of October 1 each year by an amount equal to the percentage increase (or decrease) in the Gross National Product, as published by the Department of Commerce or its successor, for the year then ended, over or under the level so established for the year ending September 30, 1986. At the beginning of October of each year, the Federal Trade Commission shall publish the adjusted amounts required by this paragraph.

"(b) When any person elected or chosen as a director or officer of any corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such corporation in such capacity, his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amendable to any of the provisions hereof by reason of any change in the capital, surplus and undivided profits, or affairs of such corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date on which an event causing ineligibility occurred, or, if practical, the next regularly scheduled election of directors, whichever occurs first.".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

AMENDMENT NO. 654

Mr. BYRD. Mr. President, I send an amendment by Mr. METZENBAUM to the desk and ask it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for (Mr. METZENBAUM), proposes an amendment numbered 654.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new sections:

SECTION . Section 7A of the Clayton Act is amended by adding at the end thereof the following new subsection:

"(k) For purposes of this section, the annual net sales and total assets of a person shall include, in the case of a partnership, the annual net sales or total assets of any general partner and any partner having the right to 50 per centum or more of the profit of the partnership, or having the right in the event of dissolution to 50 per centum or more of the assets of the partnership.".

SEC. . This Act and the amendments made by this Act shall become effective sixty days after the date of enactment of this Act.

SEC. . Section 7A(a) of the Clayton Act is amended—

(1) in paragraph (2), by striking out "$10,000,000" each place it appears in subparagraphs (A), (B), and (C) and inserting in lieu thereof "$15,000,000"; and

(2) in paragraph (3)(B), by striking out "$15,000,000" and inserting in lieu thereof "$20,000,000".

SEC. 2. (a) Section 7A(b)(1)(B) of the Clayton Act is amended—

(1) by substituting "twenty" for "fifteen"; and

(2) by striking out "or (g)(2)" and inserting in lieu thereof the following ", (g)(2), or (g)(3)".

(b) Section 7A(e) of the Clayton Act is amended—

(1) by substituting "20-day" for "15-day" each place it appears;

(2) in paragraph (2) by striking out "(or in the case of a cash tender offer, 10 days)"; and

(3) by striking out the word "only" from the last sentence of paragraph (2) and inserting at the end thereof the following: "or (g)(3)".

(c) Section 7A(g) of the Clayton Act is amended by adding the following at the end thereof: "(3) The court may extend the additional period for up to 25 days if, due to the complexity or scope of the information or documentary material to be evaluated, the Federal Trade Commission or the Assistant Attorney General reasonably requires such additional time to determine whether the proposed acquisiton may, if consummated, violate the antitrust laws."

SEC. 3. This Act and the amendments made by this Act shall become effective one hundred twenty days after the date of enactment of this Act.

Mr. METZENBAUM. Mr. President, S. 1068 represents the culmination of extended discussions and negotiations with the ranking minority member of the Judiciary Committee, Senator THURMOND, as well as members of the business community and others. This bill modernizes section 8 of the Clayton Act, which has not been significantly changed since it was passed in 1914.

S. 1068 increases the basic jurisdictional threshold for applying this section from $1 million in net worth to $10 million. It also creates a number of "safe harbors" which allow common directors of competing corporations as long as the competitive overlap is so small that there is no realistic potential for competitive harm. Finally, it expands the basic coverage of the section to include officers of corporations.

Section 8 of the Clayton Act has served a useful purpose in preventing situations which have the potential for competitive harm. The prohibitions of section 8 have been "per se" in nature, that is, the prohibited conduct is unlawful without a need for a showing of anticompetitive effect. This standard is a good one because it makes the law clear to those companies who must comply with it and it avoids lengthy litigation over the circumstances in which the section applies.

While the "per se" standard is appropriate, its aplication has had the undesirable effect of preventing any common director even if the competitive overlap was so small as to be insignificant. As a result, qualified directors have sometimes been unable to serve on boards of directors when no potential for competitive harm exists. Thus, the "safe harbors" in the bill allow more flexibility for corporations to choose directors without weakening the standards preventing harm to competition.

The bill also expands the prohibitions of the section to officers chosen by the board of directors. The potential for sharing of sensitive information and coordinating market behavior is at least as great in the case of a common officer as in the case of a common director. Thus, the bill will strengthen the law in this area.

S. 1068 represents a constructive reform of section 8 of the Clayton Act. It responds to the needs of American corporations to have greater flexibility in their ability to choose directors while expanding the scope of the law to cover potentially anticompetitive situations which are now addressed.

Mr. President, the amendment to S. 1068 which I have sent to the desk addresses two other facets of antitrust reform. The first part of the amendment consists of S. 431, legislation passed by the Judiciary Committee to close a loophole in enforcement of the Hart-Scott-Rodino Antitrust Premerger Notification System. The loophole currently enables wealthy individuals and corporations to structure mergers so that they need not be reported to the Government under the premerger notification system. The attempted takeover of Goodyear by Sir James Goldsmith and the attempted takeovers of Phillips Petroleum and Shamrock Oil by T. Boone Pickens were structured to take advantage of this loophole. While currently sanctioned, these evasions of the review mandated by the antitrust laws are unacceptable.

All the testimony addressing this issue received by the subcommittee, including statements from the U.S. Department of Justice, representatives of the business community, and T. Boone Pickens, recognizes the existence of this loophole and the need to close it. Indeed, since the introduction of and hearings on S. 431, the Federal Trade Commission has promulgated a rule designed to close the partnership loophole. Their stated goal of closing the loophole, of course, is commendable. However, their action comes late and leaves substantial parts of the loophole open.

For example, the FTC's regulation would still allow a merger by an equal partnership, composed of Exxon, Texaco, and Mobil, with Socal to slip by unreported for antitrust scrutiny. This is unacceptable.

The first part of the amendment closes the loophole. At the same time, however, it maintains agency flexibility and discretion to promulgate regulations implementing the act.

The second part of the amendment consists of S. 432, another bill recently approved by the Judiciary Committee. S. 432 is a bipartisan compromise bill containing needed reforms of the Hart-Scott-Rodino Premerger Notification System.

First, the bill increases the monetary threshold requirements, figures which have not been updated since the law was enacted in 1976. This provision relieves the reporting burden on small businesses that would probably not be involved in transactions raising antitrust issues.

Second, the bill lengthens the time the antitrust enforcement agencies have to conduct their review of mergers accomplished by cash-tender offer. It strikes a careful balance between the need for thorough antitrust scrutiny of transactions and the desire not to unduly encumber cash tender offers.

Finally, the bill establishes a process by which the enforcement agencies may seek additional time to review particularly complex mergers. Under the provision, the agencies may apply to a court for up to 45 more days to examine a transaction.

These reforms will greatly enhance the effectiveness of the premerger notification system. The bill enjoys the support of the administration as well as the business community. I would like to thank Senator THURMOND, in particular, for his help in framing S. 432.

I am sure that my colleagues see the urgent need for this amendment and will vote in favor of it.

Mr. THURMOND. Mr. President, I want to express my support for S. 1068, and for the provisions of S. 432, which are being considered with S. 1068. However, I have strong reservations about the provisions of S. 431, also being considered as a part of this legislation. These objections were set forth in the minority views on S. 431, Senate Report 100-88, and were joined in by Senators HATCH, SIMPSON, and HUMPHREY. This legislation amends section 7A of the Clayton Act by requiring that the assets and sales of controlling partners and general partners be included in determining the size of a partnership.

My concerns about the bill are not based on any opposition I have to closing the "partnership loophole." Rather, they are based on the fact that this legislation is now unnecessary and is over-broad. The Federal Trade Commission, which has authority to promulgate regulations concerning the Hart-Scott-Rodino Act's premerger notification program, has already issued regulations dealing with this very problem. I believe that FTC rulemaking is the correct way to proceed. Legislation which seeks to expand or revise rules already issued by the FTC, may only cause confusion and preclude subsequent efforts on the part of the enforcement agencies to refine the treatment of partnership acquisitions.

My second objection to this legislation is to its breadth. S. 431 covers not only those partners with a controlling interest, that is, those partners having the right to 50 percent or more of the profits of the partnership, but also general partners. The rule promulgated by the FTC reaches only controlling partners. In that respect it is consistent with the treatment generally accorded corporate transactions. Those at the FTC most familiar with the consequences of this provision, indicate that it is likely to result in the required reporting of competitively insignificant transactions, thus increasing the burden of private parties and the FTC. It is felt by those at the FTC with premerger experience, that addressing the problem through the controlling partner, will reach the most significant transactions currently slipping through the loophole. I agree.

Mr. President, as I indicated at the beginning, I will support the entire bill, including the two amendments. Nevertheless, I retain serious reservations about the wisdom of the provisions of S. 431.

Mr. HATCH. Mr. President, as I expressed in my concurring views accompanying the report of S. 432, I have some concerns that the bill may be interpreted to direct the court to order an additional period of antitrust review simply because the agencies claim they need the additional time. In particular, I am concerned that delaying the consummation of acquisitions, based on cash tender offers, may interfere unduly with the parties' ability to complete these transactions.

Would the author of the bill explain the intention of the committee regarding this point?

Mr. METZENBAUM. The committee was aware of the need to avoid undue delays in the case of cash tender offers, as well as other acquisitions. The language of the bill as originally introduced provided for a longer review period for very large mergers and provided that the longer period was automatic without the need for court review. Subsequently, the time period for review was reduced and the committee provided that the antitrust agencies should apply to the court for the extension in cases of large or complex mergers.

The Senator from Utah raised the valid point that the court should not approve an application for further time for review simply because the agencies claimed the need for such an extension of the waiting period. The Senator from Utah pointed out that the antitrust agencies could unduly interfere with cash tender offers and other acquisitions in cases where the additional time was not "reasonably required."

The resolution of this issue was to include the language "reasonably required" in the provision regarding the additional waiting period. This phrase means the agencies must justify to the court the need for the additional time for adequate antitrust review.

Just because a 25-day delay is authorized does not mean that such delay would be appropriate in any given case. It is expected that the agencies will efficiently and expeditiously complete their work in normal fashion, and that this additional time period will be granted only when necessary.

It is, of course, easy to envision circumstances where such an extension would be desirable. For instance, if a second request for additional information produces thousands of documents which must be meticulously examined, delay may easily be justified. On the other hand, where a relatively few documents are involved or, perhaps, where a simple or straightforward competition analysis is required, the agencies should be hard-pressed to justify an extension.

Mr. HATCH. I thank the Senator from Ohio and would only say that I concur in his explanation of this point. I would also note that it is clear only the Department of Justice will be present in court seeking an extension, not the parties to the merger. The Department must carry the burden of sharing the necessity of the extension in light of all circumstances however. I do have one further question of the Senator from Ohio. Is it his understanding that the agencies would not have to make some showing as to the likelihood of bringing an enforcement action—or the success of such action—in order to receive an extension.

Mr. METZENBAUM. That is correct. The only criterion that must be met by the agencies is a showing that such delay is necessary to complete its investigation.

Mr. BIDEN. I have listened to the colloquy between the Senator from Ohio and the Senator from Utah. I agree with their statements.

Mr. THURMOND. I also agree with the statements of the Senator from Ohio and the Senator from Utah.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 654) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the en-

grossment and the third reading of the bill.

The bill (S. 1068) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1068

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Clayton Act is amended to read as follows:

"SEC. 8. (a)(1) No person at the same time shall be a director or officer of any two corporations, each of which has capital, surplus and undivided profits aggregating more than $10,000,000, as adjusted pursuant to this subsection, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to subtitle IV of title 49 United States Code, if such corporations are by virtue of their business and location of operation, competitors so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws.

"(2) Notwithstanding the provisions of paragraph (1), simultaneous service as a director or officer of two corporations shall not be prohibited by this section if (A) the aggregate competitive sales of either corporation are less than $1,000,000, as adjusted pursuant to this subsection, (B) the aggregate competitive sales of either corporation are less than 1 percent of that corporation's total sales, or (C) the aggregate competitive sales of each corporation are less than 4 percent of that corporation's total sales. For purposes of this paragraph, 'aggregate competitive sales' means the aggregate gross revenues for all products and services sold by one corporation in competition with the other, determined on the basis of annual gross revenues for such products and services over the last completed fiscal year. For purposes of this section, 'total sales' means the aggregate gross revenues for all products and services sold by one corporation over the last completed fiscal year.

"(3) The eligibility of a director or officer under the provisions of paragraph (1) shall be determined by the capital, surplus and undivided profits of each corporation at the end of that corporation's last completed fiscal year.

"(4) For purposes of this section, the term 'officer' means an officer elected or chosen by the Board of Directors.

"(5) For each fiscal year commencing after September 30, 1987, the $10,000,000 and $1,000,000 thresholds in this section shall be increased (or decreased) as of October 1 each year by an amount equal to the percentage increase (or decrease) in the Gross National Product, as published by the Department of Commerce or its successor, for the year then ended, over or under the level so established for the year ending September 30, 1986. At the beginning of October of each year, the Federal Trade Commission shall publish the adjusted amounts required by this paragraph.

"(b) When any person elected or chosen as a director or officer of any corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such corporation in such capacity, his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the capital, surplus and undivided profits, or affairs of such corporation from whatsoever cause, whether specifically excepted by any of the rovisions hereof or not, until the expiration of one year from the date on which an event causing ineligibility occurred, or, if practical, the next regularly scheduled election of directors, whichever occurs first.".

At the end of the bill, insert the following new sections:

SEC. 2. Section 7A of the Clayton Act is amended by adding at the end thereof the following new subsection:

"(k) For purposes of this section, the annual net sales and total assets of a person shall include, in the case of a partnership, the annual net sales or total assets of any general partner and any partner having the right to 50 per centum or more of the profits of the partnership, or having the right in the event of dissolution to 50 per centum or more of the assets of the partnership.".

SEC. 3. Section 2 and the amendments made by section 2 shall become effective sixty days after the date of enactment of this Act.

SEC. 4. Section 7A(a) of the Clayton Act is amended—

(1) in paragraph (2), by striking out "10,000,000" each place it appears in subparagraphs (A), (B), and (C) and inserting in lieu thereof "$15,000,000"; and

(2) in paragraph (3)(B), by striking out "$15,000,000" and inserting in lieu thereof "$20,000,000".

SEC. 2. (a) Section 7A(b)(1)(B) of the Clayton Act is amended—

(1) by substituting "twentieth" for "fifteenth"; and

(2) by striking out "or (g)(2)" and inserting in lieu thereof the following ", (g)(2), or (g)(3)".

(b) Section 7A(e) of the Clayton Act is amended—

(1) by substituting "20-day" for "15-day" each place it appears;

(2) in paragraph (2) by striking out "(or in the case of a cash tender offer, 10 days)"; and

(3) by striking out the word "only" from the last sentence of paragraph (2) and inserting at the end thereof the following: "or (g)(3)".

(c) Section 7A(g) of the Clayton Act is amended by adding the following at the end thereof: "(3) The court may extend the additional period for up to 25 days if, due to the complexity or scope of the information or documentary material to be evaluated, the Federal Trade Commission or the Assistant Attorney General reasonably requires such additional time to determine whether the proposed acquisition may, if consummated, violate the antitrust laws."

SEC. 5. Section 4 and the amendments made by section 4 shall become effective one hundred twenty days after the date of enactment of this Act.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President I ask unanimous consent that Calendar Order No. 207 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—S. 1577

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1577, introduced earlier today by Mr. METZENBAUM and others, dealing with retiree health and life insurance benefits, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE CONCURRENT RESOLUTION 170—PERTAINING TO ADJOURNMENT OF CONGRESS

Mr. BYRD. Mr. President, House Concurrent Resolution 170 is at the desk. I ask unanimous consent that the Senate proceed with its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

H. CON. RES. 170

Resolved by the House of Representatives (the Senate concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the House of Representatives and the Senate shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 170) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 1414

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 1414, a bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF JUSTICE AUTHORIZATION, FISCAL YEARS 1988 and 1989

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader as to whether or not Calendar

Order 168, S. 938, the Department of Justice authorization bill, has been cleared on his side of the aisle.

Mr. WILSON. Yes, Mr. President, it has been.

Mr. BYRD. I thank my friend.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 168.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 938) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal years 1988 and 1989, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

The Senate proceeded to consider the bill.

AMENDMENT NO. 655

(Purpose: To make certain technical amendments)

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Messrs. BIDEN and THURMOND and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BIDEN and Mr. THURMOND, proposes an amendment numbered 655.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 10 strike "until September 30, 1989" and insert "for two fiscal years".

On page 4, line 3 strike "1988" and insert "1989".

On page 5, line 5 strike "1988" and insert "1989".

On page 5, line 19 after "For the Assets Forfeiture Fund:" and insert "in each fiscal year".

On page 5, line 22 and line 23 strike "not to exceed a total of $50,000,000 shall be available to pay for those expenses" and insert "the Attorney General shall provide a special report to the Judiciary Committees of both Houses of Congress regarding the expenditures of the Fund if expenditures exceed a total of $50,000,000 for those expenses".

On page 7, line 11 after "appropriation" insert "in each fiscal year".

On page 9, line 16 after "$140,270,000" insert "in each fiscal year".

On page 11, between lines 17 and 18, insert the following new section:

"SEC. 104. Notwithstanding the provisions of Public Law 99-591 making continuing appropriations for the fiscal year 1987, the amount made available in the Department of Justice Appropriations Act for Salaries and expenses, Community Relations Service (100 Stat. 3341-47) for grants, contracts, and reimbursable agreements and other expenses necessary under section 501(c) of the Refuge Education Assistance Act of 1980 is changed from $23,266,000 to $23,026,000."

On page 18, strike lines 20 and 21 and insert the following:

"(2) necessary expenses in attending to the safety of Judicial proceedings and the execution of court orders;".

On page 26, lines 13 and 14 strike "publish in the Federal Register for notice and comment" and insert "issue". On page 26, line 21 after "activities." strike the remainder of the section (through page 27, line 3) and insert the following paragraph:

"Any proposed guidelines and any changes thereto shall be made available to Congress at least thirty days prior to final adoption. In addition, following enactment of this statute, the Attorney General shall report to Congress, at intervals of one hundred and twenty days, regarding the Department's progress in drafting and issuing comprehensive guidelines."

On page 27, lines 13 and 14, strike "conduct" and insert "approval".

On page 28, between lines 11 and 12, insert the following new section: "Sec. 206. Section 567 of Title 28, United States Code, is hereby repealed."

On page 29, line 23, strike "Sec. 305" and insert "Sec. 303.".

On page 32, line 9, strike "Section 263" and insert "Section 263a".

On page 35, lines 3 and 4 strike "semiannually" and insert "annually".

On page 36, line 2 insert the following: "; provided that the Attorney General report annually to Congress regarding the number of private, for profit, contracts entered into for full detention services; such reports shall provide the name of the contractor, the location of the contractor's facility, the number of prisoners at each contract facility and their security level(s), and the cost and duration of each such contract.".

On page 36, line 22, after "unless the" insert "Judiciary and".

On page 37, line 13, after "unless the" insert "Judiciary and".

On page 41, between lines 3 and 4, insert the following:

"SEC. 504. The table of sections for Chapter 37 of Title 28, United States Code, is amended by deleting at the reference to section 567 the words 'Expenses of marshals' and substituting in lieu thereof the word 'Repealed'.

On page 41, line 4, strike "Sec 504." and insert "Sec. 505.".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 655) was agreed to.

Mr. LAUTENBERG. Mr. President, I had intended to offer the text of S. 1075 as an amendment to the Justice Department authorization bill which deals with the entry of Cuban political prisoners and Cuban immigrants to the United States.

However, the chairman and ranking minority member of the committee and the Subcommittee on Immigration have asked me to postpone offering this amendment in return for their assurances that they will act speedily on this bill in committee.

They have expressed the desire to work with me on this issue, and have given me a commitment that this bill will be considered by the subcommittee and the full committee as soon as possible.

A hearing on this legislation was held June 30, at which I testified. The chairman and ranking minority members of the full committee and the subcommittee have agreed to do everything possible to mark up this bill before the August recess.

I thank the chairman of the subcommittee and full committee for their cooperation and look forward to working with them on this matter.

Mr. KENNEDY. Senator LAUTENBERG's understanding is correct. I agree with the thrust of S. 1075, and look forward to moving it through the subcommittee. I am committed to making every effort to mark this bill up in the subcommittee before the August recess.

Mr. SIMPSON. Senator LAUTENBERG has my commitment to work with him on this bill. In principle, I do not have serious problems with the thrust of the bill's provisions on political prisoners, or the provisions on family reunification. I pledge to work with him to move this bill through the subcommittee, and to work with the ranking member of the full committee, Senator THURMOND, in order to try to iron out an acceptable bill.

Mr. BIDEN. I generally support this bill, and am committed to moving this bill through my committee. I thank the Senator from New Jersey for withdrawing the amendment he planned to offer on this issue, and give him my pledge to move expeditiously on this bill. I understand that the subcommittee plans to consider the bill soon, and I will move it in the full committee soon after that time.

● Mr. BIDEN. Mr. President, I ask my colleagues to support the passage of S. 938, the Department of Justice Authorization Act for Fiscal Years 1988 and 1989.

On Febuary 5, 1987, the ranking minority member and I introduced—by request—S. 517, the Department of Justice's proposed authorization. In considering the Department's budget request, the committee conducted the most extensive series of oversight hearings since 1979. During these 8 days of hearings, the committee heard from the Attorney General, numerous Assistant Attorneys General, and the heads of the major bureaus and offices within the Department of Justice. These hearings allowed the committee to consider thoroughly each of the activities included in the 17 separate appropriations within the Department.

After these hearings were concluded, I worked with the ranking minority member, and the subcommittee chairman and members of the minority, to develop a compromise authorization bill. This legislation, S. 938, was introduced on April 7, 1987, and by unanimous vote, the committee reported the bill favorably, without amendment, on April 9, 1987.

This bill provides $5.5 billion in budget authority in fiscal 1988 for the activities of the Department of Justice. The Department is charged with some of the most important functions of the Federal Government—enforcing the Federal Criminal Code, protecting the civil rights and civil liberties of American citizens, and representing the Federal Government in civil matters.

The committee has provided significant increases in funding for the Department of Justice to implement several important statutes enacted by the 99th Congress. Specifically, additional funding is provided for the Immigration and Naturalization Service to carry out the massive new responsibilities imposed by the Immigration Reform and Control Act of 1986. In addition, the committee has provided funding for the Department to implement and enforce the numerous new criminal provisions enacted as part of the Anti-Drug Abuse Act of 1986.

The committee has rejected the administration's proposal to eliminate State and local criminal and juvenile justice assistance programs in the Department. I believe that Federal, State, and local governments must operate as partners in the effort to reduce crime, drug abuse, and juvenile delinquency. By rejecting the administration's cuts to the State and local assistance programs, the committee has reiterated its support for providing limited funding as "seed money" for innovative and promising criminal and juvenile justice programs.

Finally, in regard to funding, the committee's authorization bill does not include the administration's proposed reduction of 100 positions in the Antitrust Division.

One of the most important new provisions contained in this bill extends the Department's authorization from 1 to 2 years. I believe a 2-year authorization will force the Department to produce long-range plans and will enhance congressional oversight by allowing the Judiciary Committee to review a more comprehensive presentation of the Department's activities.

A 2-year authorization will also allow the Judiciary Committee to focus in greater detail during the outyear on administration requests that exceed the previous year's budget targets. In addition, the hastened timetable for the appropriations process under Gramm-Rudman-Hollings almost mandates a 2-year process if we in the Judiciary Committee are going to fulfill our oversight responsibilities.

Since this is the first year of the 2-year process, the committee has agreed to set only a baseline funding level—the 1988 level plus uncontrollable expenses—for fiscal 1989. In fairness to the Department, which is not yet geared up for a 2-year budgeting process, there probably will be budget adjustments to consider next year.

The Department of Justice has gone without a new authorization bill for 7 years. As a result, the Judiciary Committee essentially has relinquished its responsibility for authorizing programs to the Appropriations Committee. The Appropriations Committee, with its broad responsibilities, should not be expected to carry out the in-depth budgetary and oversight review of the Department that is warranted.

The ranking member, Senator THURMOND, and I have worked together on this legislation, as we have in moving previous crime legislation. As with the Comprehensive Crime Control Act of 1984, we have pursued action on those aspects of the bill on which we could agree. Based on our experience and mutual goals, the ranking member and I have agreed that controversial and substantive legislative proposals would not be included as part of this authorization bill.

The committee has also agreed to consider making less controversial matters—like the purchase of cars and firearms or the conducting of meetings, and so forth—a part of permanent law. A similar approach was used 3 years ago when we last reported an authorization bill.

This is one of the most important pieces of legislation that the committee will consider this session, and the bill and accompanying report should be extremely useful in affirming this committee's desire to carry out its oversight responsibility of the operation of the Department of Justice. The bill represents a compromise that is the result of consideration of changes suggested by the subcommittee chairmen and by members of the minority. I would like to thank the ranking minority member, Senator THURMOND, for his cooperation on this bill.●

Mr. THURMOND. Mr. President, I am pleased that today the Senate is considering S. 938, the Department of Justice Authorization Act for fiscal years 1988 and 1989.

This legislation, which I was pleased to cosponsor with the distinguished chairman of the Judiciary Committee, Senator BIDEN, would provide for a 2-year authorization, rather than the usual 1-year period. For fiscal year 1988, it would authorize spending levels very similar to those requested by the Department of Justice. For fiscal year 1989, it would authorize spending at the 1988 levels plus uncontrollable increases.

For a number of years, the Justice Department has sought to make permanent various authorities previously granted on an annual basis. Many of these permanent authorities are included in S. 938, and should improve the Department's ability to meet its responsibilities. Although everything the Department requested is not included in S. 938, it is my understanding that, overall, they are pleased with the bill and support its passage.

Mr. President, unfortunately, Congress has not enacted a Department of Justice authorization in 8 years, leaving it to the appropriation process. In 1984, the Senate managed to pass a Justice authorization, but it did not receive House approval. I commend Chairman BIDEN for his efforts to reestablish the appropriate process for funding one of the most vital agencies of the Government. It has been my pleasure to have worked with him in developing this bill, as he assisted me in our similar effort in 1984.

Mr. WILSON. Mr. President, if the majority leader will indulge me, I have a statement of my own on this bill.

Mr. President, we have just agreed to an amendment. That amendment addressed the very serious problem that seems, unhappily, recurring, the consideration of what we in Congress shall do with those funds that are seized from drug traffickers, those assets seized from drug traffickers.

Mr. President, the asset forfeiture funds, as they are termed, are administered by the Department of Justice and the Customs Service and are vital parts of our national effort against drug trafficking. They are, therefore, integral to our efforts to ending drug abuse, and they are the result of a very basic concept. Some might call it poetic justice, but what it is in more prosaic terms is that the ill-gotten gains of drug traffickers and pushers should be seized and then used to support further antidrug law enforcement efforts.

This basic concept has yielded tens of millions of dollars which have been disbursed to local law enforcement agencies on the Federal, State, and local levels in fewer than 3 years. That is a lot of money, Mr. President, money for Federal law enforcement efforts which has helped enhance the activities of the Customs Service, the Federal Bureau of Investigation, and the Drug Enforcement Administration.

Through what is quite properly termed the equitable sharing program, money has also been returned to State and local law enforcement agencies throughout the country in recognition of their efforts which have led to the seizure of these assets from drug traffickers.

Mr. President, as part of last year's omnibus drug legislation a provision which I offered was adopted which made important changes in the conduct of the proceedings under the asset forfeiture funds. These changes were necessary to provide that all of the money seized from criminals be used for law enforcement purposes and not for other less important, unre-

lated Federal purposes. Furthermore, that same provision which I offered took from the Customs fund the cap that was then inserted. Instead, a much higher cap was offered to replace, it, which meant that more of those funds could be used for law-enforcement purposes and at the same time the cap on the Department of Justice asset forfeiture fund was removed altogether so that all of those funds might be used for law enforcement.

Now, because of that, Mr. President, it is all the more disturbing that despite the changes made by last year's drug bill the integrity of the asset forfeiture program seems to be still at risk.

As reported by the Judiciary Committee, section 101(3) of S. 938, the fiscal year 1988 Department of Justice authorization act, would have placed a cap on disbursements from the Department of Justice fund for Federal law enforcement and administrative purposes. Happily, the amendment which we have just adopted will change that.

Now, I appreciate fully the responsibility of the committee to ensure that all disbursements which it makes are cost effective, that they are for legitimate purposes, but the cap that would have been in this legislation, had we not just wisely amended it, was entirely inappropriate because it put us back into that same ill-considered box from which we had removed ourselves just last year.

Mr. President, accordingly, I wish to express my appreciation to the very able chairman of the Judiciary Committee, Senator BIDEN, and to his staff for their willingness to craft an alternative provision to replace that unwise absolute cap. What they have come up with is a reporting requirement, one that will not place an expenditure cap on the asset forfeiture fund but one that will provide the committee with information which will be useful to them in their task of ensuring proper oversight.

Mr. President, while the objectionable provision in the reported bill capping the asset forfeiture fund disbursements has been deal with, I am saddened to tell you that it seems almost contagious that there is an effort to try to place a cap upon the expenditure of these funds for the purpose that we have dwelled upon at some strength, and I think justifiably, and that is the fighting of crime at the local level. In particular, if you talk to any police chief or sheriff, you will learn from them that an inordinate amount of time and effort in their departmental expenditures is expended in drug-related or directly in drug cases. So there is a certain irony, it would seem, in our inability to deal with this problem and say that the assets seized from drug traffickers will be used to fight them.

Now, I would simply ask, Mr. President, of those who continually resist this effort, be they in the Office of Management and Budget or somewhere else, what other program can be so important that we should prevent the assets seized from criminals from being used to enhance our law enforcement efforts? What else is more important? What other program is so important that we should fund it at the expense of those law enforcement efforts? What other program is so important that we should deny State and local law enforcement agencies, those on the front line of our war on drugs, the benefits that can be obtained from our wise use of these assets seized from the criminals who are engaged in that poisonous traffic?

Mr. President, I respectfully submit that there is no program offered for authorization of funding in the Department of Commerce or Department of State or Department of Justice authorization bill that could justify disrupting the operation of a program as vital and as clearly effective as this program for equitable sharing of seized assets distributed to local law enforcement so that we can make what we call the war on drugs, in fact the real war, and not an empty slogan. If we are to give that war more than lip service, Mr. President, we must give it real resources.

After all, the money disbursed under the equitable sharing program is not money from the general fund. It is not some new Federal grant. It is not something that they are applying for that they have not earned, these sheriffs, these policy chiefs. It is payment in a very real sense for services rendered, payment that recognizes that but for the investigative efforts of local law enforcements, the criminals might very well not have been caught and the assets themselves never seized.

Mr. President, the equitable sharing program encourages cooperation between Federal, State, and local officials that is essential. We are dealing with the most sophisticated of criminals when we attempt to stem the drug traffic. It is an international traffic. It is one that employs the latest in high technology.

All too often, we have seen that our officers and agents are not as well equipped as those against whom they must go in the effort to first detect and then to apprehend those engaged in the traffic. The equitable sharing program responds to that imbalance and seeks to redress it. It says that when these investigations are successful, the credit and the reward should be spread among those who have been part of the successful apprehension.

To abolish the equitable sharing program even for 1 year not only undercuts the effectiveness of our law enforcement agencies, but also, it is an insult to those State and local law enforcement officers. It says that somehow we value something more than the efforts they make, literally placing life and limb at risk. Mr. President, that is wrong. I do not believe anything is more important than that we give to those on that firing line in this war on drugs all possible assistance.

Some would say that the assets that are seized in this forfeiture fund are a windfall. Some would say that they need to be counted as we count everything else in our budget process—creating, I might add, the possibility of a freeze on the funds. I really do not agree with that. But, at the very least, if the fund is to remain on budget, it should be placed at the very top of the list when the appropriations committees start carving up the Federal budget pie.

Mr. President, I believe that the House of Representatives made a very grave error when it included in its bill a freeze on the asset forfeiture fund. Not only does this action undermine the position established by Congress in last year's omnibus drug bill, and specifically that contained in the amendment which I offered, but also, it disrupts the antidrug efforts of law-enforcement agencies at all levels of government—Federal, State, and local.

In my State of California, which, because of its proximity to the Mexican border, has the unhappy distinction of being a major transit point in the United States for drug smuggling, local law enforcement agencies have long awaited the equitable sharing, which we have given as the name to this fund. They have become discouraged by the long delays in receiving the money under this program. The very prospect of these funds now being blocked by a statutory freeze has quite justifiably outraged them.

Mr. President, in response to their justifiable outrage, I urge my colleagues to contact their State attorneys general, their police chiefs, and their sheriffs, to fully appreciate from their first-hand testimony the importance of retaining the asset forfeiture fund equitable sharing program without a cap and certainly without the moratorium proposed by the House.

Mr. President, it is my sincere hope that our Appropriations Committee will see very clearly the need for removing the House-passed cap. I hope they will. I will say right now that I enlist among my colleagues all the aid they may be prepared to give me, because I am dedicated to working for the removal of a cap provision and definitely to remove that unwise moratorium. It is not only unfair to law enforcement. More important, as law enforcement people will tell you, it is unfair to those whom those sheriffs, those police chiefs, and those law en-

forcement officers risk their lives to protect every day.

Mr. President, I thank my friend, the distinguished majority leader. There is nothing more on our side. We are ready for third reading.

Mr. BYRD. Mr. President, I thank my friend.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 938) was passed, as follows:

S. 938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Years 1988 and 1989".

TITLE I

1988 AND 1989 FISCAL YEAR AUTHORIZATIONS

SEC. 101. There are authorized to be appropriated for the fiscal year ending September 30, 1988, and the fiscal year ending September 30, 1989, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following sums:

(1) For General Administration, Salaries and Expenses: $103,513,000 for the fiscal year 1988 and $138,000,000 for the fiscal year 1989;

(2) For additional capital for the General Administration Working Capital Fund: $4,000,000 for the fiscal year 1988;

(3) For the United States Parole Commission: $12,253,000 for the fiscal year 1988 and $12,865,000 for the fiscal year 1989;

(4) For General Legal Activities: $303,485,000 for the fiscal year 1988 and $315,114,000 for the fiscal year 1989; which shall include—

(A) not to exceed $75,000 in each fiscal year which may be transferred from the "Alien Property Funds, World War II", for the general administrative expenses of alien property activities;

(B) not to exceed $20,000 in each fiscal year for unusual expenses necessary in the collection of evidence, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General or Deputy Attorney General;

(C) not to exceed $6,000,000 of those funds appropriated in each fiscal year for litigation-support contracts, which amount shall remain available for two fiscal years; and

(D) not to exceed $24,718,000 of those funds appropriated in each fiscal year for automation of legal activities, including legal activities of the Antitrust Division and the United States Attorneys and the activities of offices funded under the General Administration, Salaries and Expenses, appropriation, which amount shall remain available until expended;

(5) For the Antitrust Division: $48,510,000 for the fiscal year 1988 and $51,497,000 for the fiscal year 1989;

(6) For the Foreign Claims Settlement Commission: $510,000 for the fiscal year 1988 and $504,000 for the fiscal year 1989;

(7) For the United States Marshals Service: $216,092,000 for the fiscal year 1988 and $230,000,000 for the fiscal year 1989; which shall include not to exceed $1,350,000 in each fiscal year for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites;

(8) For the Support of United States Prisoners in non-Federal institutions: $76,914,000 for the fiscal year 1988 and $80,000,000 for the fiscal year 1989; which shall remain available until expended and which amounts shall include sums available for reimbursements to appropriate health care providers for the care, diagnosis and treatment of United States prisoners and persons adjudicated in Federal courts as not guilty by reason of insanity: *Provided,* That such services shall be provided at rates that, in the aggregate, do not exceed the full cost of these services; and of which not to exceed $5,000,000 in each fiscal year shall be available until expended under the Cooperative Agreement Program for the purpose of renovating, constructing, and equipping state and local correctional facilities;

(9) For Fees and Expenses of Witnesses: $37,359,000 for the fiscal year 1988 and $38,400,000 for the fiscal year 1989; which shall remain available until expended;

(10) For the Community Relations Service: $29,123,000 for the fiscal year 1988 and $30,273,000 for the fiscal year 1989, of which $21,740,000 in each fiscal year shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980, (Public Law 96-422);

(11) For United States Attorneys: $413,555,000 for the fiscal year 1988 and $431,194,000 for the fiscal year 1989;

(12) For the United States Trustee System Fund: $53,525,000 for the fiscal year 1988 and $60,400,000 for the fiscal year 1989: *Provided,* That deposits to the fund are available in such amounts as may be necessary to pay refunds due depositors;

(13) For the Assets Forfeiture Fund: in each fiscal year such sums, to be derived from the Fund, as may be necessary for the payment of expenses as authorized by section 524 of title 28, United States Code: *Provided,* That, the Attorney General shall provide a special report to the Judiciary Committees of both Houses of Congress regarding the expenditures of the Fund if expenditures exceed a total of $50,000,000 for those expenses authorized by section 524(c)(1) (B), (C), (F) and (G) of title 28, United States Code, and by that portion of section 524(c)(1)(A) of title 28, United States Code, which was added by Public Law 99-570.

(14) For the Federal Bureau of Investigation: $1,484,421,000 for the fiscal year 1988 and $1,512,121,000 for the fiscal year 1989; which shall include—

(A) not to exceed $70,000 in each fiscal year to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General or Deputy Attorney General;

(B) not to exceed $3,000,000 of those funds appropriated in each fiscal year for research relating to investigative activities, which portion shall remain available until expended;

(C) not to exceed $10,000,000 of those funds appropriated in each fiscal year for automated data processing and telecommunications and not to exceed $1,000,000 of those funds appropriated in each fiscal year for undercover operations, which amounts shall remain available for two fiscal years;

(D) not to exceed $13,000,000 of those funds appropriated for fiscal year 1988 for the construction of the Engineering Research Facility, which amount shall remain available until expended;

(E) not to exceed $11,358,000 of those funds appropriated for fiscal year 1988 for the construction of a system to assist in language translation and recording for the New York field office, which amount shall remain available until expended; and

(F) not to exceed $45,000 in each fiscal year for official reception and representation expenses:

Provided, That, not to exceed $17,500,000 may be credited to this appropriation in each fiscal year from fees collected for the processing of fingerprint identification records pursuant to section 577(b)(2) of title 28, United States Code.

(15) For the Drug Enforcement Administration: $522,047,000 for the fiscal year 1988 and $563,046,000 for the fiscal year 1989; which shall include—

(A) not to exceed $70,000 in each fiscal year to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General or the Deputy Attorney General;

(B) not to exceed $1,200,000 of those funds appropriated in each fiscal year for research, which amount shall remain available until expended;

(C) not to exceed $1,700,000 of those funds appropriated in each fiscal year for the purchase of evidence and for payments for information, which amount shall remain available for two fiscal years;

(D) not to exceed $4,000,000 of those funds appropriated in each fiscal year for automatic data processing and telecommunications and not to exceed $2,000,000 of those funds appropriated in each fiscal year for technical equipment; which amounts shall remain available for two fiscal years; and

(E) not to exceed $45,000 in each fiscal year for official reception and representation expenses;

(16) For the Immigration and Naturalization Service: $1,093,520,000 for the fiscal year 1988 and $1,066,433,000 for the fiscal year 1989; which shall include—

(A) not to exceed $50,000 in each fiscal year to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General or the Deputy Attorney General;

(B) not to exceed $400,000 of those funds appropriated in each fiscal year for research, which amount shall remain available until expended;

(C) not to exceed $400 per annum per employee for members of the Border Patrol and not to exceed $300 per annum per employee for immigration inspectors and detention officers of the Immigration and Naturalization Service who are required by regulations or statute to wear a prescribed uniform in the performance of official duties; and

(D) not to exceed $140,270,000 in each fiscal year for detention and deportation.

(17) For the Federal Prison System, including the National Institute of Corrections: $981,694,000 for the fiscal year 1988 and $1,056,500,000 for the fiscal year 1989; which shall include—

(A) $760,851,000 for the fiscal year 1988 and $835,500,000 for the fiscal year 1989 for Salaries and Expenses;

(B) $10,509,000 of those funds appropriated for the fiscal year 1988 and $11,000,000 of those funds appropriated for the fiscal year 1989, for carrying out the provisions of sections 4351 through 4353 of title 18, United States Code, which established a National Institute of Corrections; which amounts shall remain available until expended;

(C) $210,334,000 of those funds appropriated for the fiscal year 1988 and $210,000,000 of those funds appropriated for the fiscal year 1989 for planning, acquisition of sites and construction of new facilities; and for the purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional institutions; and for the payment of United States prisoners for work performed in these activities; which amount shall remain available until expended; and

(D) not to exceed $300 per annum per employee for those employees of the Federal Prison System who are required by regulation or statute to wear a prescribed uniform in the performance of official duties.

SEC. 102. A total of not to exceed $75,000 from funds authorized to be appropriated in each fiscal year to the Department of Justice by this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 103. (1) There are authorized to be appropriated for fiscal years 1988 and 1989, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

(2) The Administration may submit, and the Committees on the Judiciary shall consider, requests for increases in the amount of appropriations authorized by this Act for fiscal year 1989. Any such request shall be accompanied by a report detailing the Administration's justification for the requested increase in appropriations' authorization.

SEC. 104. Notwithstanding the provisions of Public Law 99-591 making continuing appropriations for the fiscal year 1987, the amount made available in the Department of Justice Appropriations Act for "Salaries and expenses, Community Relations Service" (100 Stat. 3341-47) for grants, contracts, and reimbursable agreements and other expenses necessary under section 501(c) of the Refuge Education Assistance Act of 1980 is changed from $23,266,000 to $23,026,000.

TITLE II

PERMANENT ENABLING LEGISLATION

SEC. 201. Part II of title 28, United States Code, is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—GENERAL AUTHORIZATIONS—DEPARTMENT OF JUSTICE

"§ 577. General Authorizations—Department of Justice.

"(a) The Attorney General is authorized to use Department of Justice appropriations to make payments for the conduct of the activities of the Department of Justice. Such payments may include payments for—

"(1) expenses, mileage, compensation, and per diem in lieu of subsistence, of witnesses as authorized by law, without regard to the competitive procurement requirements of title 15 and title 41, United States Code; provided that no witness shall be paid more than one attendance fee for any one calendar day;

"(2) advances of public moneys under section 3324 of title 31, United States Code; provided that travel advances to law enforcement personnel engaged in undercover activity shall be deemed public monies within the meaning of section 3527 of title 31, United States Code;

"(3) planning, acquisition of sites and construction of special purpose law enforcement type facilities; and construction, operation, remodeling and repair of law enforcement type buildings and facilities used for law enforcement purposes; and the purchase of necessary equipment and the payment of necessary expenses directly related to the conduct of these activities;

"(4) the lease or purchase of passenger motor vehicles; provided that motor vehicles for police type use may be purchased for law enforcement purposes without regard to the general purchase price limitation for the fiscal year during which such a purchase is effected;

"(5) the purchase of firearms and ammunition for use by law enforcement officers and trained security personnel, and the participation in firearms competitions;

"(6) the confidential lease of surveillance sites for law enforcement purposes;

"(7) the acquisition, lease, maintenance and operation of aircraft for law enforcement purposes;

"(8) miscellaneous and emergency expenses authorized or approved by either the Attorney General, the Deputy Attorney General or the Associate Attorney General;

"(9) official reception and representation expenses;

"(10) attendance at meetings;

"(11) services of experts and consultants as authorized by section 3109 of title 5, United States Code, and at rates of pay for individuals up to but not exceeding the daily rate payable for GS-18 of the General Schedule in section 5332 of title 5, United States Code;

"(12) services of interpreters and translators who are not citizens of the United States;

"(13) payment of rewards, the purchase of evidence and payment for information in connection with law enforcement;

"(14) the purchase of insurance for motor vehicles, boats and aircraft operated in official Government business in foreign countries; and

"(15) benefits for employees serving overseas as authorized under section 901 (3), (5), (6), (8), (9), (15) and section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4081 (3), (5), (6), (8), (9), (15) and section 4084 of title 22, United States Code), and under the regulations issued by the Secretary of State.

"(b)(1) The Attorney General is authorized to use appropriations for the Federal Bureau of Investigation to make payments for the conduct of its activities. Such payments may not be used to pay the compensation of any employee in the competitive service but may include payments for—

"(A) expenses necessary for the detection and prosecution of crimes against the United States;

"(B) protection of the person of the President of the United States and the person of the Attorney General;

"(C) investigations regarding official matters under the control of the Department of Justice and the Department of State, as may be directed by the Attorney General; and

"(D) acquisition, collection, classification, and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities and such other institutions, as authorized by law, such exchange to be subject to cancellation if dissemination is made outside the receiving departments on related agencies.

"(2) The Federal Bureau of Investigation may establish and collect fees for the processing of noncriminal employment and licensing fingerprint cards. Such fees shall represent the full cost of furnishing the service. The funds collected shall be credited to the Salaries and Expenses, Federal Bureau of Investigation appropriation without regard to section 3302(b), of title 31, United States Code, and shall be available, to the extent specified in appropriations Acts, until expended, to pay for salaries and other expenses incurred in operating the Federal Bureau of Investigation Identification Division. No fee shall be assessed in connection with the processing of requests for criminal history records by criminal justice agencies for criminal justice purposes or for employment in criminal justice agencies.

"(c) The Attorney General is authorized to use appropriations for the Drug Enforcement Administration to make payments for the conduct of its activities. Such payments may include payments for—

"(1) expenses necessary for the detection and prosecution of crime against the United States within its investigative jurisdiction; and

"(2) contracting with individuals for personal services abroad: *Provided,* That such individuals shall not be regarded as employees of the United States for the purpose of any law administered by the Office of Personnel Management.

"(d) The Attorney General is authorized to use appropriations for the Immigration and Naturalization Service to make payments for the conduct of its activities. Such payments may include payments for—

"(1) distribution of citizenship textbooks to aliens without cost to such aliens;

"(2) allowances to aliens for work performed while held in custody under the immigration laws;

"(3) cash advances to aliens for meals and lodgings upon departure from the United States;

"(4) refunds of maintenance bills, immigration fines and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money;

"(5) the lease of horses from officers or employees of the Service;

"(6) acquisition of land as sites for enforcement fences, and expenses incident to the construction of such fences;

"(7) expenses and allowances incurred in tracking lost persons, as required by public exigencies, in aid of State or local law enforcement agencies; and

"(8) expenses necessary for the detection and prosecution of crimes against the United States within its investigative jurisdiction.

"(e) The Attorney General is authorized to use appropriations for the Bureau of Prisons to make payments for the conduct of its activities. Such payments may include payments for—

"(1) the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; and for inmate legal services within the Federal prison system;

"(2) construction of buildings at prison camps and acquisition of land as authorized by section 4010 of title 18, United States Code;

"(3) the labor of the United States prisoners performed in the construction or remodeling of prison buildings or facilities;

"(4) assistance to State and local governments to improve their correctional systems; and

"(5) the purchase and exchange of farm products and livestock.

"(f) The Attorney General is authorized to use appropriations for the United States Marshals Service to make payments for the conduct of its activities. Such payments may include payments for—

"(1) the actual and necessary expenses associated with the offices established under section 561 of this title;

"(2) necessary expenses in attending to the safety of Judicial proceedings and the execution of court orders;

"(3) the expense of transporting prisoners, including the transportation between the United States and foreign countries of persons charged with crime, and including the cost of necessary guards and the travel and subsistence expenses of prisoners and guards;

"(4) the operation and maintenance for official use of vehicles seized and forfeited to the United States Government;

"(5) the supervision of United States prisoners in non-Federal institutions;

"(6) expenses incurred for the use of facilities in the protection of witnesses and in the planning, acquisition, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites;

"(7) expenses incurred pursuant to contracts and cooperative agreements for security guards and for the service of summonses on complaints, subpoenas and notices in lieu of service by United States marshals or deputy marshals; and

"(8) such other expenditures as may be necessary in the performance of its responsibilities to the judicial and executive branches.

"(g) As used in this section the term 'law enforcement' refers to the activities of the Federal Bureau of Investigation; the Drug Enforcement Administration; the Immigration and Naturalization Service; the Bureau of Prisons; and the United States Marshals Service; except that for the purposes of subsection (a)(3), 'law enforcement' refers only to the activities, in the United States, of the Bureau of Prisons and subject to the provisions of section 1252(c) of title 8, United States Code, and section 4003 of title 18, United States Code, of the Immigration and Naturalization Service.

"§ 578. Authorizations and exemptions available for undercover investigative operations.

"(a) The authorizations and exemptions provided below may be utilized for undercover operations conducted by the following bureaus of the Department of Justice: the Federal Bureau of Investigation and the Drug Enforcement Administration. As used herein, the head of a bureau refers, respectively, to the Director of the Federal Bureau of Investigation and the Administrator of the Drug Enforcement Administration.

"(b)(1) An exempt undercover operation refers to any operation designed and necessary to detect and prosecute crimes against the United States as to which the head of a bureau, or his designee, and the Attorney General, or his designee, have certified in writing that any action authorized by this section is necessary for the conduct of that undercover investigation.

"(2) The designee of the Attorney General, or any alternate designee, must be an official in a position of, or a position superior to that of, a Deputy Section Chief of the Criminal Division. The designee of the Director of the Federal Bureau of Investigation, or any alternate designee, must be an official serving in a position of, or a position superior to that of, a Deputy Assistant Director of the Criminal Investigative Division. The designee of the Administrator of the Drug Enforcement Administration, or any alternate designee, must be an official serving in a position of, or a position superior to that of, a Deputy Assistant Administrator of the Operations Division.

"(3) An exempt undercover operation also refers to any operation of the Federal Bureau of Investigation designed and necessary to collect foreign intelligence or to conduct foreign counterintelligence, as to which the Director of the Federal Bureau of Investigation, or the Assistant Director of the Intelligence Division if so designated by the Director, and the Attorney General, or the Counsel for Intelligence Policy if so designated by the Attorney General, have certified in writing that any action authorized by this section is necessary for the conduct of that undercover investigation.

"(4) The type of exemptions sought for each operation shall be specified on the certification and the use of the exemptions for each operation will be reviewed during the operation by the official designated by the head of the bureau pursuant to subsection (b) (1) or (2) of this section.

"(c)(1) Appropriations may be used for purchasing or leasing property, buildings, facilities, space, goods, insurance, licenses, and any equipment necessary to establish and/or operate an undercover operation. These acquisitions shall be made in accordance with prevailing commercial practices so long as such practices are consistent with the purposes of the undercover operation. Laws applicable to Federal acquisitions, Federal property management and Federal appropriations shall not apply to any acquisition for an exempt undercover operation where compliance with such laws would risk compromise of the undercover nature of the investigation.

"(2) Appropriations may be used to establish, acquire, and/or operate proprietary corporations or business entities in accordance with prevailing commercial practices so long as such practices are consistent with the purposes of the undercover operation. Laws applicable to Federal personnel, Federal appropriations, and Government corporations shall not apply to any transaction for an exempt undercover operation where compliance with such laws would risk compromise of the undercover nature of the investigation.

"(3) The Attorney General shall, within ninety days of the effective date of this statute, and annually thereafter, transmit to Congress a report listing all Federal personnel, Federal acquisition, Federal property management, Federal appropriation, and Government corporation laws as to which a determination has been made that compliance with such laws would risk compromise of the undercover nature of an investigation. The Attorney General shall, consistent with maintaining the security of ongoing undercover investigation, promptly report to Congress regarding any determination that compliance with additional Federal personnel, Federal acquisition, Federal property management, Federal appropriation, or Government corporation laws would risk compromise of the undercover nature of an investigation.

"(4) Appropriations and the proceeds from an exempt undercover operation may be deposited in banks or other financial institutions and may be used to offset necessary and reasonable expenses incurred in such operation without deposit in the Treasury: *Provided*, That, as soon as any such proceeds are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(d) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (2) of paragraph (c) with a net value of over $150,000 is to be liquidated, sold, or otherwise disposed of, the head of the bureau, as much in advance as he or his designee determines is practicable, shall report the circumstances to the Attorney General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(e)(1) The Attorney General shall direct and supervise a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1988, and each fiscal year thereafter, and shall, not later than one hundred and eighty days after such undercover operation is closed, submit a report to the Congress concerning such audit.

"(2) For purposes of these audit and reporting requirements:

"(A) the term 'closed' refers to the point in time at which—

"(i) all criminal proceedings (other than appeals) are concluded, or

"(ii) covert activities are concluded, whichever occurs later;

"(B) the terms 'undercover investigative operation' and 'undercover operation' mean any undercover investigative operation of a bureau (other than a foreign counterintelligence undercover investigative operation)—

"(i) in which—

"(a) the gross receipts (excluding interest earned) exceed $150,000, or

"(b) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

"(ii) which is exempt from laws applicable to Federal appropriations and Government corporations.

"(f) The Attorney General shall submit a report annually to the Congress specifying, as to the Federal Bureau of Investigation

and the Drug Enforcement Administration—

"(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

"(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

"(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

"(I) the results,

"(II) any civil claims, and

"(III) identifications of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.".

SEC. 202. Section 578 of title 28, United States Code, is hereby repealed, effective October 1, 1989: *Provided*, That any certification of exemption for an undercover investigation issued pursuant to that section prior to that date shall remain in effect for the duration of that undercover investigation.

SEC. 203. The Attorney General shall issue comprehensive guidelines for the authorization of undercover investigations, other than foreign counterintelligence undercover investigations, by: the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, the United States Marshals Service and any other component of the Department of Justice that may conduct such activities. Any proposed guidelines and any changes thereto shall be made available to Congress at least thirty days prior to final adoption. In addition, following enactment of this statute, the Attorney General shall report to Congress, at intervals of one hundred and twenty days, regarding the Department's progress in drafting and issuing comprehensive guidelines.

SEC. 204. Sums authorized to be appropriated by this Act for the Immigration and Naturalization Service and the United States Marshals Service may be used by those bureaus for the conduct of undercover investigations in accordance with the authorizations and exemptions available for undercover investigative operations contained in section 578 of title 28: *Provided*, That—

(1) such authorizations and exemptions shall not be available until the head of the bureau issues, and the Attorney General accepts, guidelines for the approval of undercover investigations by that bureau;

(2) any request for the Attorney General's certification of exemption for an undercover investigation pursuant to section 578(b)(1) of title 28, United States Code, shall specify the expected time period for utilizing the exemptions, the expected resources to be committed, a description of the circumstances for using the exemptions, and a specification of the scope of the investigative effort;

(3) any exemptions provided pursuant to this section shall remain in effect for ongoing undercover investigations without regard to the expiration of any fiscal year; and

(4) any individual acting pursuant to section 578(b)(1) of title 28, United States Code, as the designee of the head of the bureau be an official holding a position comparable to the positions specified with respect to the Federal Bureau of Investigation and the Drug Enforcement Administration in section 578(b)(2) of title 28, United States Code.

SEC. 205. Section 6 of the Act of July 28, 1950 (64 Stat. 380; 8 U.S.C. 1555), is hereby repealed.

SEC. 206. Section 567 of Title 28, United States Code, is hereby repealed.

TITLE III

ADDITIONAL PERMANENT LEGISLATION

SEC. 301. The Attorney General or his designee is authorized to use Department of Justice appropriations to make payments for assistance to individuals under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422) without regard to section 501(e)(2)(B) of that Act, which prohibits such assistance to individuals with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has been entered. Such payments may include grants which shall be administered by the Community Relations Service.

SEC. 302. (a) Paragraph (1) of subsection 245(a) of title 18, United States Code, is amended by substituting a comma for the word "or" following the words "Attorney General" and by inserting "the Associate Attorney General or any Assistant Attorney General specially designated by the Attorney General" after the words "Deputy Attorney General";

(b) Section 1073 of title 18, United States Code, is amended by inserting ", the Deputy Attorney General, the Associate Attorney General," after the words "Attorney General";

(c) Subsection 1961(10) of title 18, United States Code, is amended by inserting, "the Associate Attorney General of the United States," after the words "Deputy Attorney General of the United States";

(d) Subsection 3331(a) of title 18, United States Code, is amended by inserting ", the Associate Attorney General," after the words "Deputy Attorney General",

(e) Section 514 of title II of the Controlled Substances Act (21 U.S.C. 884(c)) is amended by inserting ", the Associate Attorney General," after the words "Deputy Attorney General"; and

(f) Section 14 of Public Law 96-456 (18 U.S.C. App. IV 14) is amended by inserting ", the Associate Attorney General," after the words "Deputy Attorney General".

SEC. 303. Chapter 301 of title 18, United States Code, is amended by adding the following new section:

"§ 4002A. Support of United States prisoners in non-Federal institutions.

"The Attorney General or his designee is authorized to make payments from appropriations available for the support of United States prisoners in non-Federal institutions for—

"(1) necessary clothing;

"(2) medical aid and necessary guard hire;

"(3) payment of rewards for assistance in the capture or information leading to the capture of a Federal fugitive; and

"(4) entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation and acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local government which agrees to provide guaranteed bed space for Federal detainees within that correctional system, in accordance with regulations issued by the Attorney General and which are comparable to the regulations issued under section 4006 of title 18, United States Code, except that amounts made available for this purpose shall not exceed the average amortized per-inmate-cost of constructing similar confinement facilities for the Federal prison population: *Provided further*, That the availability of such federally assisted facility shall be assured for housing Federal prisoners, the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs, and the service provided meets other conditions specified in the contract or cooperative agreement.".

SEC. 304. Chapter 307 of title 18, United States Code, is amended by deleting the first paragraph of section 4121 and inserting a new first paragraph as follows:

" 'Federal Prison Industries', a Government corporation, shall be administered by a board of six directors, appointed by the President to serve at the will of the President. Members of the board who are not employees of the Federal Government or the District of Columbia shall be paid for their services at the daily equivalent of the rate payable for GS-18 of the General Schedule in section 5332 of title 5, United States Code.".

SEC. 305. Chapter 307 of title 18, United States Code, is amended by adding the following new section:

"§ 4129. General authorizations—Federal Prison Industries, Incorporated.

"Federal Prison Industries, Incorporated, is authorized to make such expenditures and to make such contracts and commitments, without regard to fiscal year limitation, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles.".

SEC. 306. Section 4204(b) of title 18, United States Code, pertaining to the United States Parole Commission, is amended by adding at the end thereof the following new subsection:

"(9) the lease or purchase of passenger motor vehicles.".

SEC. 307. Section 263a of title 22, United States Code, is amended by inserting the following at the end thereof: "The Attorney General or his designee is also authorized to make payments from Department of Justice appropriations for expenses necessary to host, at intervals of ten years or longer, the annual meeting of the General Assembly of INTERPOL and to periodically sponsor INTERPOL conferences on topics of international crime.".

SEC. 308. Section 1622d of title 22, United States Code, pertaining to the Foreign Claims Settlement Commission, is amended by adding at the end thereof the following new paragraph:

"The Commission is authorized to hire passenger motor vehicles, for field use only, and to purchase insurance for official motor vehicles used abroad. The Commission may advance funds abroad and may advance funds to other Government departments or agencies in connection with reimbursable agreements. The Commission is also author-

ized to employ aliens abroad and, with the approval of the Secretary of State, to acquire necessary office space and living quarters abroad and to maintain, repair, furnish, and provide utilities for such properties.".

TITLE IV

ADDITIONAL AUTHORIZATIONS AND REQUIREMENTS FOR FISCAL YEARS 1988 AND 1989

SEC. 401. During fiscal years 1988 and 1989:

(1) The Attorney General is authorized to accept and utilize, on behalf of the United States, any gift, donation, or bequest of real or personal property for the purpose of aiding or facilitating the work of the Department of Justice, including Federal Prison Industries, Incorporated. No gift may be accepted—

(A) that attaches conditions inconsistent with applicable laws or regulations, or

(B) that is conditioned upon or will require the expenditure of appropriated funds unless such expenditure has been authorized by Act of Congress.

(2) The Attorney General shall promulgate rules for accepting gifts pursuant to this provision, to ensure, among other things, that no gifts are accepted under circumstances that will create a conflict of interest for the Department of Justice.

(3) Gifts and bequests of money, as well as the proceeds from sales of property received as gifts or bequests that were not immediately usable by the Department of Justice, shall be credited to any appropriation or fund and shall remain available until expended, upon order of the Attorney General.

(4) Gifts, bequests of property, and property acquired from the proceeds credited to appropriations or funds pursuant to subsection (3), and which are no longer required by the Department of Justice for its needs and the discharge of its responsibilities, shall be reported to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

(5) Property accepted pursuant to this section and the proceeds credited to appropriations of funds pursuant to subsection (3) shall be used as nearly as practicable in accordance with the terms of the gift or bequest.

(6) For the purpose of Federal income, estate, and gift taxes, property accepted under subsection (1) of this section shall be considered as a gift or bequest to or for the use of the United States.

(7) The Attorney General shall report annually to Congress regarding all gifts that have been accepted pursuant to this section. Such reports shall specify the nature and value of any gift that has been accepted, the identity of the donor, the nature of any terms of restrictions attached to the gift, and the reasons why acceptance of the gift does not give rise to an actual or potential conflict of interest.

SEC. 402. Sums authorized to be appropriated by this Act may be used for training in the United States and abroad for foreign law enforcement personnel, with the concurrence of the Secretary of State, as a counterpart to similar training programs designed for State and local officers: *Provided*, That the Attorney General report annually to Congress regarding all training of foreign law enforcement personnel conducted by the Department of Justice pursuant to this statute; such reports shall specify the number, by country, of foreign law enforcement personnel who have received training, the foreign countries in which training has been conducted, and the nature and extent of any such training.

SEC. 403. Sums authorized to be appropriated by this Act may be used for contracting or engaging in cooperative agreements with public or private organizations or entities for the safekeeping, evaluation, treatment, care, and subsistence of persons held under any legal authority: *Provided*, That the Attorney General report annually to Congress regarding the number of private, for profit, contracts entered into for full detention services; such reports shall provide the name of the contractor, the location of the contractor's facility, the number of prisoners at each contract facility and their security level(s), and the cost and duration of each such contract.

SEC. 404. None of the sums authorized to be appropriated by this Act may be used for any activity the purpose of which is to overturn or alter the per se prohibition of resale price maintenance, in effect under the Federal antitrust laws, except that nothing in this section shall prohibit any employee of the Department of Justice from presenting testimony on this matter before appropriate committees of the House of Representatives and the Senate.

SEC. 405. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or activity;

(3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;

(4) relocates an office or employees;

(5) reorganizes offices, programs, or activities; or

(6) contracts out any functions or activities presently performed by Federal employees; unless the Judiciary and Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that:

(1) augments existing programs, projects, or activities;

(2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Judiciary and Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 406. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organization's programs, as determined by priorities set either by the Congress or the Attorney General.

(b) Subordinate Department of Justice organizations and their officials shall provide all necessary assistance and cooperation in the conduct of the evaluation, including full access to all information, documentation, and cognizant personnel, as required.

(c) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives, and other appropriate committees.

(d) If the Committee on the Judiciary of either the Senate or the House of Representatives requests the Attorney General to perform an evaluation of the kind described in subsection (a) of this section, the Attorney General shall submit to the committee making the request, not later than thirty days after the date the request is made, a design and timetable for making the requested evaluation. If the projected time period for completing the evaluation exceeds six months, the Attorney General shall, during the course of the evaluation, submit intermittent reports on the progress of the evaluation to the committee making the request.

(e) The Attorney General's annual report on Department of Justice activities shall be made available to the Committees on the Judiciary of the Senate and House of Representatives, and other appropriate committees, within six months after the end of the fiscal year to which it pertains.

SEC. 407. (a) The Attorney General shall, during the fiscal years for which appropriations are authorized by this Act, transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If, during the fiscal year for which appropriations are authorized by this Act, the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

TITLE V

TABLES OF CHAPTERS AND SECTIONS

SEC. 501. The table of sections for chapter 301 of title 18, United States Code, is amended by inserting after the item relating to section 4002 the following new item:

"4002A. Support for United States prisoners in non-Federal institutions.

"4043. Repealed.

"4044. Repealed.".

SEC. 502. The table of sections for chapter 307 of title 18, United States Code, is amended by inserting after the item relating to section 4128 the following new item:

"4129. General authorizations—Federal Prison Industries, Incorporated.".

SEC. 503. The table of chapters for part II of title 28, United States Code, is amended by inserting after the item relating to chapter 37 the following new item:

"38. General authorizations..... 577.".

SEC. 504. The table of sections for Chapter 37 of Title 28, United States Code, is amended by deleting at the reference to section 567 the words "Expenses of marshals" and substituting in lieu thereof the word "Repealed".

SEC. 505. The table of sections for chapter 38 of title 28, United States Code, shall read as follows:

"577. General authorizations.

"578. Authorizations and exemptions available for undercover investigative operations.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GLASNOST AND THE PLIGHT OF SOVIET JEWRY

Mr. ROCKEFELLER. Mr. President, I rise today to lend my voice to the Congressional Call to Conscience on behalf of Soviet Jewry. Regrettably, in spite of new leadership in the Soviet Union, the right of the Soviet Jews to emigrate—a right guaranteed under Basket Three of the Helsinki Conference on Security and Cooperation in Europe—continues to be denied.

Mr. Gorbachev's rise to power in the Soviet Union in March 1985 brought with it bold new appeals for openness, creativity, and self-criticism. And, indeed, some major changes have been made.

Soviet workers are now being publicly criticized for their lack of discipline and dedication. The gates of cultural expression, closed for so long, have begun to open. Artists and writers, who, for 20 years have been forced to publish their works underground, are now experiencing their first taste of cultural and expressive freedom. Long banned works by such writers as Vladimir Maboko and Boris Pasternak are being published by the state-run printing establishment. And a group of dissidents has even been permitted to publish an unofficial journal of news and opinion—appropriately entitled "Glasnost".

Andrei Sakharov, upon his release from Gorky last December, characterized the new atmosphere of openness by saying, "Something real is happening and the situation has changed—'glasnost' is not just propaganda or window dressing."

However, we cannot allow ourselves to become so captivated by the vibrance of the new Soviet leadership that we overlook the continuing injustice committed against those who are prisoners of conscience, particularly Soviet Jews.

Unlike his predecessors, Gorbachev has talked openly about Soviet Jews. But, while Gorbachev extolls the rewarding cultural lifestyle Soviet Jews enjoy, the emigration figures reveal a somewhat different picture. During the past 2½ years of the Gorbachev regime the emigration numbers have fluctuated significantly. In 1985 only 1,140 refuseniks were granted exit visas. By 1986 the number of emigres declined to 986. Although the figures have risen to more than 3,300 during the first half of 1987, emigration regulations continue to be exceedingly restrictive.

One of the excuses most often used in denying exit visas is that of "state security." Although Gorbachev declared that a wait of 5 to 10 years should be the limit for visa applicants, those privy to state secrets, regardless of how long ago, are often permanently denied exist visas. Emigration visa denials based on claims of "state security" often belie the reality.

In 1986, Foreign Minister Schevernadze announced a new emigration policy. Under this policy, applicants must be sponsored by spouses, parents, and children or siblings living abroad. However, many applicants who fall within these guidelines are still denied permission to emigrate—most with no explanation.

Yosef Yosovich is one of those who was refused without explanation. Yosef was the chief agronomist in a collective farm until 1970. He then became an assistant director of a souvenir factory. His wife was a laboratory technician. Yosef and his family wanted to emigrate to Israel to be with Yosef's parents and brother. In March 1980, he submitted the required documents, including the invitations from his relatives living in Israel. The family waited 1 year for a response, but none came. When Yosef inquired as to the status of his application, he was told that if he had not received an answer it meant he had been refused. No explanation was given and he was told not to trouble himself by making further inquiries. To this day the Yosoviches are waiting to be reunited in Israel.

The case of Yosef Yosovich is not atypical. It is an all too common and tragic situation for those who desire to leave the Soviet Union. The new face of Gorbachev's Russia should not hide the fact that the Soviet Union continues to deny fundamental and internationally recognized human rights. Therefore, it is important that we in Congress continue to pressure the Soviet Government and let those who are prisoners of conscience know that their plight remains very much on our minds.

And it is not only in Congress that concern for the plight of Soviet Jewry is registered. As a gesture of concern and solidarity, Mr. and Mrs. Paul Sherman of Charleston, WV, symbolically paired the Bar Mitzvah of their son, Jack, with the Yosoviches' son, Igor, on May 23, 1987. This was but one of many similar outpourings of concern on the part of Americans across the Nation.

Glasnost has, indeed, opened some new doors for the Soviet Union. However, the touchstone of an open society remains the freedom of choice. Whether Gorbachev's Russia is making true strides toward greater openness is yet to be seen. Actions speak louder than words, and increased emigration is one action that can give real meaning to a new direction in the Soviet Union.

Mr. President, an excellent article on the subject of "glasnost" and the Soviet Jewry by Jim Hoagland appeared in today's Washington Post. I ask unanimous consent that it appear in the RECORD immediately following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 31, 1987]

LOOSENING THE CHAINS

(By Jim Hoagland)

Moscow.—By loosening the chains that hold his nation's intellectuals in thrall, Mikhail Gorbachev has gained vital support from Soviet writers, editors, scientists and even dissidents in rallying public opinion. This implicit bargain is the political essence of *glasnost*.

But it is far from being the whole story of *glasnost*, a story in which chains that are slightly loosened can too easily become more newsworthy than the chains the dictatorship keeps tightly in place.

To understand that more fully, sit down at the dining room table of Valery Soyfer, professor of molecular biology, refusenik and engaging host. On hand is a friend of Soyfer, also a brilliant scientist and also Jewish.

Soyfer proudly discloses that he received a phone call a few days ago for which he had waited nearly a decade. His once-taboo manuscript detailing the bastardization of Soviet science under Stalin political henchman, T.D. Lysenko, is finally on its way to being published.

Under prodding from his friend, Soyfer acknowledges that this could not have happened without the spirit of national debate and criticism that Gorbachev has encouraged as the core of *glasnost*, which is usual-

ly if inadequately translated as openness. "It is true he has put normal people with normal mentality in some positions," Soyfer says grudgingly.

"When the journals ask me to do articles about what's wrong with our scientists," the friend reports, "they say now they want me to write stronger, to hit harder at officials than I have." The friend declines to do so for the same reason that he did not permit his name to be used in this column. He does not want to endanger his strong position on the academic fast track here.

"It means that self-censorship is replacing censorship," the friend, now prodded by Soyfer, concedes. "These are powerful people in science, and who knows if you will always be protected against them if you criticize them too much?"

Adding to the friend's reluctance to make waves is a conviction that *glasnost* includes a commitment by Gorbachev to oppose official anti-Semitism. "I know this, Valery, I see the promotions that are happening and are going to happen," he says to a profoundly disbelieving Soyfer.

Soyfer, who is 50, jumped off the science fast track nearly 10 years ago by applying to emigrate from the Soviet Union. He quickly lost his job and opportunities to publish his views here. The prospect that his Lysenko manuscript will be published is almost as dramatic a reversal as the release last January of Andrei Sakharov from internal exile.

For Soyfer, glasnost will remain a dangerous illusion until the refuseniks—people who visibly challenge the official refusal of their application to emigrate to Israel or other countries—are let go. Until then, he refuses to join his friend and Sakharov in viewing Gorbachev's changes as genuine.

"Perhaps I would begin to believe there was real change if they would just start telling the truth about refuseniks," Soyfer says. "They make up ridiculous stories that we came into contact with state secrets and that is why we can't leave, but they won't say how long we have to wait before these secrets are useless."

Soyfer gently criticizes foreign correspondents based in Moscow for not testing and identifying the limits of glasnost through their dispatches. The litmus test for him, obviously enough, is what they say, and don't say, about the refuseniks.

His point reflects one of the sharpest dilemmas that western correspondents face in Gorbachev's changing Soviet Union. In the 1970s, journalists here tended to exaggerate the importance of Soviet dissidents, in part because they were dramatic copy and they were accessible at a time when few other Soviets were.

Today, the daily drama is in the avalanche of changes that Gorbachev has rolled down onto domestic and foreign policies. Officials who understand the premium that their leader attaches to public opinon in the West are slowly opening up to reporters. In all of this, the continuing story of the refuseniks and the tight police control of the society tends to get lost in the shuffle.

Gorbachev's reforms are perhaps the most far-reaching changes that the West could hope for in the Soviet Union today. But it is likely that these are efforts to make the heavy chains Soviet citizens wear more comfortable, and less visible, rather than to lift them completely. Letting Valery Soyfer and the other refuseniks go would help prove that judgment wrong.

WAR HERO SENATOR NOW

Mr. DOLE. Mr. President, on July 29 the Chicago Tribune ran a profile of freshman Senator JOHN MCCAIN of Arizona entitled "The War Hero is a Senator Now."

The piece outlined the Senator's personal history—including the fact that one of his ancestor's served on the staff of Gen. George Washington during the Revolutionary War. But the focus of the story was on JOHN MCCAIN'S "5½ brutal, painful, dehumanizing years as a prisoner of war" and the impact that experience has had on his life and career.

Senator MCCAIN'S story is an inspiring one. He has and continues to serve this country with distinction. I ask that the full text of the Chicago Tribune story be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, July 29, 1987]

THE WAR HERO IS A SENATOR NOW

EX-POW JOHN MCCAIN CAN SEE "IRANGATE" AS FEW OTHERS COULD

(By Michael Kilian)

WASHINGTON.—Bemedaled marines testifying before congressional investigating committees under limited immunity from prosecution are not the only Vietnam War heroes to be found on Capitol Hill these days.

More than a dozen combat veterans of the war have been elected to Congress. One of the most admired of them, who last year won the Senate seat vacated at the retirement of Barry Goldwater, is an Arizona Republican who also served alongside Adm. John Poindexter—not as a document shredder but as a fellow student in the Class of 1958 at the Naval Academy at Annapolis, Md.

He is John Sidney McCain III, a former Navy combat pilot who was awarded the Silver Star, the Bronze Star, the Distinguished Flying Cross, the Purple Heart and the Legion of Merit. His tour in Vietnam was extended by 5½ brutal, painful, dehumanizing years as a prisoner of war, courtesy of the North Vietnamese, a Soviet surface-to-air missile and his own unwillingness to gain freedom by handing the enemy a propaganda coup.

His experience in Vietnam provides him with an unusual insight into the impulses that led to the Iran-contra scandal, particularly the beliefs of people such as Marine Lt. Col. Oliver North. He says North and people like him were profoundly affected by their experiences in a war they believe they could have won were it not for untrustworthy politicians.

The senator named after two other John Sidney McCains, his father and grandfather, both famous seadogs who rose to flag rank and high command. The senator all but certainly would have become an admiral also but was medically retired from the service in 1981 with the rank of captain because of the crippling injuries he suffered from being shot down, imprisoned and tortured.

As he noted ruefully, he bears the "dubious distinction" of being the most injured pilot to have survived the North Vietnamese prison camps.

"I can't bend this knee," he said, demonstrating this fact in a recent interview in his Russell Building office. "And this knee is pretty banged up, too. I can't lift this arm."

He shrugged as best he could.

A friendly, easy-going man soon to turn 51, at 5 feet 9 inches he is carrying too much weight, and his hair has thinned and turned silver. He moves with obvious discomfort. But he considers himself lucky.

"A lot of my comrades never got a second chance to serve their country," he said sadly.

Already a highly influential member of the Senate Armed Services Committee, McCain previously served two terms in the House and in his final military years, as the Navy's liaison with the Senate.

As a senator he has won a reputation as the sailor's, soldier's and airman's friend, willing to stand up to the Reagan administration in arguing against the deployment of marines in Lebanon and taking on top Pentagon brass in opposing controversial pet weapons systems.

McCain comes from one of the most military families in America. An ancestor, Capt. William Young, served on the staff of Gen. George Washington in the Revolutionary War. As the oldest surviving son of his father, who died the year McCain got out of the Navy, he has assumed the family's place in the Society of the Cincinnati, whose members must be descendants of Washington's officers and is about as exclusive an organization as there is.

Settling in Mississippi, McCain's family throughout most of the nation's history produced generals and admirals practically every generation, including some of the leading commanders in the Civil War and World Wars I and II. His oldest son, Doug, is a Navy lieutenant junior grade who flies A-6 attack bombers.

His grandfather, the first John Sidney McCain, became commander of all aircraft carriers in the Pacific under legendary Adm. William "Bull" Halsey. He stood with Halsey and other World War II leaders in the front rank of those present at the Japanese surrender aboard the battleship Missouri. The grandfather then returned stateside, where shortly after a welcome-home party he suffered a heart attack and died. McCain speaks of him reverently:

"He was a very colorful guy," the senator said. "Very non-reg. Very profane. He rolled his own cigarettes with one hand. He, Halsey and [Adm. Chester] Nimitz were all at the Naval Academy at the same time. These guys all knew each other. When the selection boards met, they didn't look at the record. They just asked who was eligible for promotion. That leadership—the classes of '04, '05, '06, '07—they were all admirals when the war broke out. They all fought together. There was a very close relationship."

A destroyer and a naval-air facility were named for the grandfather. McCain recalled that Halsey was the main speaker at the destroyer's launching in 1952.

"He stood up and started talking about my grandfather. At this time, his [Halsey's] health was very poor. He only spoke for a few minutes. He started crying. Tears started coming out of his eyes. He said, 'I just can't talk about him anymore.' "

McCain's father, whom an acquaintance recently described as "so salty you got seasick talking to him," was a submariner. As crusty and irreverent as the grandfather, he was put into what hitherto had been a retirement job as a naval representative on the staff of the United States delegation to the United Nations. But he took the post so seriously and performed so ably that he won

further promotion and eventually became commander in chief of U.S. naval forces in the Pacific in 1968, at the height of the Vietnam War.

By then, his son had been a POW for nearly a year. As a propaganda gesture, the North Vietnamese offered the young pilot an early release. He refused, to deprive his captors of a propaganda opportunity, and suffered for it terribly. He calls it his lowest time as a captive.

The senator said he never had a choice about entering the service.

"It wasn't that I was forced into it. It was just an assumption since I was a very young man. I was a child of the '50s. It was a decade later that men started questioning their future."

He said he turned to naval aviation because it seemed so glamorous, noting that nearly all of his classmates who were able to pass the rigorous physical examination did the same.

McCain, however, was as "non-reg" as his father and grandfather and collected so many demerits for such indiscretions as sneaking out for beers after lights-out that he ended up graduating fifth from the bottom of his class. Fellow midshipman Poindexter, whom superiors later described as perhaps the Pentagon's consummate bureaucrat, graduated at the very top.

The senator got to Vietnam in 1967, flying hardy A-4 Skyhawk attack bombers from the carrier Forrestal. On July 29 of that year, while McCain was in the cockpit awaiting takeoff, a rocket from another plane misfired and hit his fuel tank, starting fires and explosions that killed 130 men. McCain escaped, but the carrier was so badly damaged it had to return to the U.S. for repairs.

But a sister ship, the carrier Oriskany, was short of pilots and asked for volunteers. Despite what he had just experienced, McCain was among the first to raise a hand.

He flew mostly bombing raids similar to those in the short story and movie "Bridges at Toko-ri"—tough, low-level attacks at painfully slow speeds. Three months later, on his 23d mission, the first against a target within the city limits of Hanoi, his plane was hit by a missile. The right wing was blown off, and the A-4 went into a screaming dive.

Ejecting from the plane under nearly impossible circumstances, McCain suffered severe fractures of his right leg and arm, and his left shoulder was dislocated. Captured after parachuting into a lake, he was treated to rifle-butt blows and bayonet stabs, then thrown into a cell without medical attention. Though the North Vietnamese subsequently allowed not-very-successful operations on his leg, his arm was left to heal itself.

He was beaten regularly and tortured during the rest of his imprisonment, especially after his refusal of early release but also for such transgressions as tapping code messages to other POWs and declining to meet with American antiwar activists touring North Vietnam.

He was among the third group of American POWs to be released after the Paris talks brought an "honorable peace" to the conflict in 1973. He weighed less than 100 pounds. His hair had gone white. Though he has written about his experience, he speaks somewhat haltingly about it.

A photograph taken by a visiting Frenchman a short time after his capture speaks eloquently. McCain's face bears the haunting expression known in the military as "the 1,000-yard stare." It has been seen frequently on the faces of combat men shortly before their deaths.

McCain returned to Vietnam in 1985 in the company of CBS' Walter Cronkite and a camera crew preparing a broadcast marking the 10th anniversary of the fall of Saigon. He found that a monument had been erected in the lake where he was captured commemorating that event. A photo of the monument hangs above his desk.

"They got nearly everything wrong," he said, including his name. "The greatest insult of all—it says, 'USAF.' They say they captured 'the American Air Pirate *Major* John McCain.' "

He was a Navy lieutenant commander at the time.

McCain noted that the Vietnamese people who gathered around them treated him as more of a celebrity than Cronkite.

The former POW, who said his main interest in making the trip was to bring visibility to Americans still listed as missing in action, added that he was able to visit the prison where he had suffered for so many years.

"I didn't have a particularly emotional experience," he said. "I went into the cell I had been in. I made sure they didn't close the door."

As happened to a number of Vietnam War POWs, McCain was divorced from his first wife, Carol, in 1980. They had been married since 1965, and he had adopted her two sons from a previous marriage, Doug and Andy. A daughter, Sidney Ann, was born in 1966 and now attends North Carolina State University.

Shortly before his medical retirement from the Navy, he accompanied members of the Senate on a Pacific trip and was a guest at a reception in Hawaii. It was there he met his second wife, Cindy. They now have two children—Meghan, 2½, and Jack, 1.

Born in the Panama Canal Zone, McCain grew up and lived as an adult all over the country—and planet. Upon retirement, he decided to move to his new wife's home state of Arizona, taking a job with his father-in-law's beer distributorship.

But his work with the military and Congress had fostered a desire for further public service. Though warned he was being overly ambitious, he decided to run in 1982 for the congressional seat of House Minority Leader John Rhodes, who was retiring. He was elected with 66 percent of the vote and re-elected in 1984 with 78 percent. His Senate victory last year came despite substantial Democratic gains in the rest of the country.

Despite his terrible wartime experiences and significant subsequent achievements, he is unassuming, soft-spoken and given to punctuating his statements with quiet laughter.

But he can be fiercely independent. His votes in Congress sided with President Reagan 80 percent of the time in 1983 but only 68 percent of the time in 1985.

He called for the withdrawal of the "peacekeeping" force of marines Reagan had dispatched to Lebanon in 1983.

"It is said we are there to keep the peace," he said on the House floor. "I ask, what peace? It is said we are there to aid the government. I ask, what government?"

When the administration quietly tried to transfer $28 million from a program that provides food for the needy to pay for raises for Agriculture Department appointees earlier this year, McCain discovered the move in budgetary fine print and introduced legislation to block it.

While highly critical of Democratic opposition to American involvement and activities in Central America, McCain has urged the White House to switch from its effort to overthrow the Nicaraguan Sandinistas to one of bringing pressure to bear to restore the democratic process and human rights in that country.

Despite all the flag-waiving going on in Congress, McCain hardly condones all the actions that took place in the National Security Council basement in the Iran-contra affair. According to some reports, he urged his classmate Poindexter not to become the first admiral in history of the Navy to take the 5th Amendment.

He said the most disturbing aspect of the Iran-contra affair and the congressional reaction to it is how much it represents the ultimate breakdown of cooperation between the executive and legislative branches on the formulation and implementation of foreign policy. A breakdown that began during the Vietnam War has been marked by increasingly rampant and dangerous leaking of information about covert operations, he argued.

He complained that some members of Congress now attempt to halt or change presidential policy by threatening to leak sensitive information to the press and public.

McCain said he could understand why former NSC assistant Lt. Col. Oliver North did the things he did—understanding perhaps as few other members of Congress can.

"I admire him as an American and as a soldier," the senator said after a thoughtful pause. "I would suggest that he would not have made some of the mistakes he made if he had not been given the latitude to do so."

After another pause, he said: "I made the statement a couple of days ago that I felt some officers were affected—severely affected—by their experience in combat in the Vietnam War when they perceived that their elected leadership had deprived them of the opportunity for victory in Vietman.

"I was a pilot. It's vastly different. But some of these people like Ollie North, who saw their comrades and friends spill blood and die on the battlefields in a war that they believe the politicians wouldn't let them win—I think that leads to a mine-set which could rationalize deviating from the established rules and regulations."

THE CRUEL KINDNESS OF THE MINIMUM WAGE

Mr. HATCH. Mr. President, the Labor and Human Resources Committee has been holding hearings on S. 837, a bill introduced by our colleague from Massachusetts, Senator KENNEDY. The bill would increase the minimum wage nearly 40 percent over the next 3 years and thereafter would index the minimum wage to one-half the average hourly wage.

This is a tough issue, Mr. President, because the minimum wage is often perceived as symbol of our concern for the working poor. It is tough, Mr. President, because we all want to help those who are trying earnestly to help themselves. The difficulty is that this legislation not only fails in that goal, it also sacrifices hundreds of thousands of job opportunities for those

who most need the experience and the training.

There is considerable economic research indicating the serious negative ramifications of such legislation as well as the ineffectiveness of the minimum wage as a means to help those in poverty. Though the estimates of disemployment vary, the plain fact is that someone has to pay for these wage increases. The losers are most likely going to be those people we are ostensibly trying to help—which is reason enough to question the wisdom of this approach to helping them get ahead.

Mr. President, I would like to call Senators' attention to the column by James J. Kilpatrick which appeared in the Washington Post on July 15, 1987, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 15, 1987]

THE "CRUEL KINDNESS" OF THE MINIMUM WAGE

(By James J. Kilpatrick)

Joann Peters, 18, is an attractive young woman, not overly endowed in the brains department, who was graduated a few weeks ago from her smalltown high school. She has no great interest in college and no funds for tuition. She is living at home with her mother and a younger brother. Her mother earns $9,360 a year as an ironer in a local laundry.

James Kennon, 41, is manager of the Steamboat restaurant at 23rd and Main streets. His franchised fast-food operation is in heavy competition with the Sizzlin' Steak and the Happy Crab. Kennon works seven days a week, but his food costs are rising and his rent just went up. In slow weeks he has a tough time meeting his payroll.

The Steamboat now employs 10 persons per shift at the minimum wage of $3.35 an hour and two others at $4 an hour. This figures out to labor costs of $41.50 an hour or $332 for an eight-hour shift. He really could use an 11th worker to clear tables and wash dishes, but he hesitates to add to his payroll when his margin of profit is so small.

Very well, Joann Peters and James Kennon, meet Sen. Edward Kennedy. The gentleman from Massachusetts is about to complicate your lives. He and Rep. Augustus Hawkins (D-Calif.) are pushing hard for a bill to increase the minimum hourly wage in 1988 from $3.35 to $3.85. It would mandate a minimum of $4.65 in 1990.

Joann would like to work at the Steamboat. Jim Kennon would like to hire Joann. This would be her first job, and there's an opening on the floor. She's good-hearted but a little careless; she needs the experience of holding a job and showing up on time. All of us know such Joanns.

But this is how Jim Kennon looks at it: the Kennedy-Hawkins bill would require him to pay his 10 lowest-level employees $3.85 an hour, or $38.50 per day. The two cooks would have to be raised to $4.50 an hour to preserve a reasonable differential. If he keeps everyone employed, he is now looking at labor costs of $380 a shift, two shifts a day, compared with his present $332 a shift. He is looking at added labor costs of $35,000 a year, with no increase in productivity or service.

Goodbye, Joann, and tough luck, kid. Instead of 10 full-time hired hands at $3.35, Kennon will hire eight persons full-time and one to work six hours a shift at the required $3.85. Assuming the raise of 50 cents an hour for the cooks, the Steamboat will now have labor costs of $341.50 per shift. The manager will be spending roughly $7,000 more a year for labor, he will have nothing to show for it, and Joann will be just kind of, you know, hanging around home.

The example is hypothetical, of course, but this is how the real world works. In the idealistic world of Kennedy and Hawkins, an increase in the statutory minimum wage is a great thing for the poor folks. Don't you believe it. Every study that has been made of the economic "benefits" of a higher minimum wage demonstrates that an increase harms the very class of unskilled workers it is intended to help.

Who are these workers on minimum wage? The Department of Labor says there are about 5 million of them, of whom 3 million are in the 16-to-24 age bracket. Nearly 40 percent are teen-agers. Two-thirds are women. Only about 1.7 million work full-time; the rest work part-time.

For the great majority, a minimum wage job is their first job. It's the bottom rung for persons who lack higher education and sophisticated skills. Clearing tables at the Steamboat may not sound like much, but it marks the beginning of real-world responsibility. Here the willing Joanns have an opportunity to earn an honest wage, to acquire experience, and to demonstrate to the Jim Kennons that they have the ambition and the personality to move up.

Kennedy and Hawkins, with the very best intentions, suppose that a higher minimum wage will reduce welfare costs and lower the number of families at the so-called poverty level. No evidence supports this surmise. On the contrary, for every increase of 10 percent in the minimum wage, we may anticipate a loss of 80,000 to 240,000 jobs for teenagers.

Grammarians define an "oxymoron" as a combination of contradictory words. The example usually given is "cruel kindness." That says all that needs to be said of the Kenndey-Hawkins bill.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

UNITED STATES ARCTIC RESEARCH PLAN: MESSAGE FROM THE PRESIDENT—PM-57

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with Section 109 of Public Law 98-373, the Arctic Research and Policy Act of 1984, I transmit herewith the United States Arctic Research Plan. It is submitted on behalf of the Interagency Arctic Research Policy Committee, which is chaired by the National Science Foundation. The Plan was developed in consultation with the Arctic Research Commission, the Governor of the State of Alaska, residents of the Arctic, the private sector, and public interest groups. It is a comprehensive statement of national needs and priorities in the areas of national security, rational resource development, and acquisition of new scientific knowledge in the Arctic. As noted in the report, the Plan is intended to serve as a guide to the Federal agencies as they plan and perform their Arctic programs and missions; it is not intended to be a commitment by the Administration.

RONALD REAGAN.

The White House, *July 31, 1987.*

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that the President has approved and signed the following joint resolutions:

On June 29, 1987:

S.J. Res. 86. Joint resolution to designate October 28, 1987, as "National Immigrants Day."

On July 6, 1987:

S.J. Res. 117. Joint resolution designating July 2, 1987, as "National Literacy Day."

On July 10, 1987:

S.J. Res. 15. Joint resolution designating the month of November 1987 as "National Alzheimer's Disease Month";

S.J. Res. 51. Joint resolution to designate the period commencing on July 27, 1987, and ending on August 2, 1987, as "National Czech American Heritage Week"; and

S.J. Res. 75. Joint resolution to designate the week of August 2, 1987, through August 8, 1987, as "National Podiatric Medicine Week."

On July 15, 1987:

S.J. Res. 138. Joint resolution to designate the period commencing on July 13, 1987, and ending on July 26, 1987, as "U.S. Olympic Festival-1987 Celebration", and to designate July 17, 1987, as "U.S. Olympic Festival-1987 Day."

On July 20, 1987:

S.J. Res. 85. Joint resolution to designate the period commencing on August 2, 1987, and ending on August 8, 1987, as "International Special Olympics Week", and to designate August 3, 1987, as "International Special Olympics Day."

On July 24, 1987:

S.J. Res. 88. Joint resolution to designate the period commencing November 15, 1987, and ending November 21, 1987, as "Geography Awareness Week."

On July 28, 1987:

S.J. Res. 160. Joint resolution to designate July 25, 1987 as "Clean Water Day."

On July 31, 1987:

S.J. Res. 76. Joint resolution to designate the week of October 4, 1987, through October 10, 1987, as "Mental Illness Awareness Week."

MESSAGES FROM THE HOUSE

At 1:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that pursuant to the provisions of House Resolution 235, the bill of the Senate (S. 829) entitled "An Act to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1988, and for other purposes," is respectfully returned to the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1414. An act to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1414. An act to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated.

POM-271. A joint resolution adopted by the Legislature of the State of Alabama favoring support for the Department of Agriculture'a Africanized Bee Barrier Proposal; to the Committee on Appropriations.

"H.J. RES. 359

"Whereas, the Africanized bee quickly supplanted European stock, expanding their range 200 to 300 miles a year from the original epicenter in Brazil (1957), and have now reached Guatemala and are soon to cross over into Mexico if this has not already occurred; and

"Whereas, leading scientific experts have indicated that, if the Africanized bee continues to advance as predicted, it will be in the United States by 1990; and

"Whereas, studies in Venezuela, Colombia, and Central America found that the bee has retained virtually all of its African characteristics as it has spread; and

"Whereas, the Africanized bee has the potential to have a devastating impact on Alabama's agricultural industry and to threaten public health and safety; and

"Whereas, Alabama ranks high in the nation in honey production; and

"Whereas, assuming pure European stock can still be produced in Alabama after Africanized bees become established, research has shown that the European bees may be unable to compete with a potentially high density of wild Africanized bees foraging on the limited pollen and nectar sources; and

"Whereas, Africanized bees could have a serious effect on the commercial beekeeping industry for queen and package bee production as well as honey production; and

"Whereas, a substantial number of cases have been reported in which animals and people have been severely or fatally stung because of the abundance and special behavioral characteristics of the Africanized bee; and

"Whereas, the public could encounter Africanized bees in the form of wild colonies and swarms in urban and suburban areas as well as rural areas where increased incidences of stinging could occur; and

"Whereas, public awareness programs, as well as continuous permanent programs to control wild colonies of Africanized bees would need to be established by public agencies at a great expense to the taxpayer; and

"Whereas, to date, the Africanized bee has not been eradicated from any area in which it has become established; and

"Whereas, the United States Department of Agriculture's Agriculture Research Service and Animal and Plant Health Inspection Service have developed the Africanized Bee Barrier Proposal not as the ultimate solution, but as a way to provide our scientists with the time needed for research to be completed to provide a long-term genetic solution; and

"Whereas, recent sightings indicate that the Africanized bee has migrated up to the barrier point proposed by the United States Department of Agriculture which may make any delay in implementing the barrier proposal more hazardous: Now, therefore, be it

"Resolved by the Legislature of Alabama, both houses thereof concurring, That we respectfully memorialize the President and the Congress of the United States to give their full support to the speedy implementation of the United States Department of Agriculture's Africanized Bee Barrier Proposal by appropriating the funds necessary from the department's current 1986-87 budget: Be it further

Resolved, That we respectfully memorialize the legislatures of the States of Arizona, Florida, Illinois, Kansas, Louisiana, North Carolina, Ohio, South Carolina and Texas to act expeditiously in memorializing the President and the Congress of the United States to give their full support to the speedy implementation of the United States Department of Agriculture's Africanized Bee Barrier Proposal.

"Resolved Further, That the Clerk of the House of Representatives transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from Alabama in the Congress of the United States, and to the respective leaders of the legislatures of the States of Arizona, Florida, Illinois, Kansas, Louisiana, North Carolina, Ohio, South Carolina and Texas."

POM-272. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

ASSEMBLY JOINT RESOLUTION No. 12

"Whereas, United States Secretary of the Interior Donald P. Hodel has announced new revisions to a proposed five-year offshore oil and gas leasing plan for California; and

"Whereas, Secretary Hodel's proposals were immediately criticized by several members of California's congressional delegation, including both of the state's senators; and

"Whereas, As recently revised, the five-year plan would open to development about 6,450,000 acres—about 13 percent of the total California offshore area—which had been excluded from drilling by a congressional moratorium that expired in 1985; and

"Whereas, The fields opened to development under the plan would provide for the nation's energy supply for no more than, and possibly many fewer than, 39 days; and

"Whereas, The proposed five-year plan has been released against a backdrop of growing public concern and local actions affecting the process of offshore oil and gas development and regulations; and

"Whereas, Voters in a number of California coastal communities have overwhelmingly approved initiatives to limit onshore support facilities for offshore oil and gas development; and

"Whereas, California Department of Fish and Game statistics for 1982 indicate California fishermen earned two hundred forty-one million dollars ($241,000,000) and the commercial fishing industry and related industries contributed approximately seven hundred twenty-five million dollars ($725,000,000) to this State's economy in 1982; and

"Whereas, Some twenty-two billion five hundred million dollars ($22,500,000,000) are spent annually by tourists in California coastal communities, and studies conclude that offshore oil and gas development has a negative effect on tourist expenditures; and

"Whereas, The Department of the Interior proposal continues to reject the need for the inclusion in the five-year plan of protective provisions requiring that offshore oil and gas development activities comply with onshore air quality standards, the ability to demonstrate oil spill preparedness, and limitations on ocean discharges of drilling muds and other material from offshore operation; and

"Whereas, The offshore oil and gas development plan fails to require the transport of any produced oil by pipeline, the safest method from the standpoint of oil spill prevention and protection of air quality; and

"Whereas, Migratory animals such as ducks, geese, whales, and sea lions feed and rest in California's coastal wetlands in large enough numbers to make these wetlands irreplaceable habitat areas; and

"Whereas, California's multi-billion dollar tourist industry has considerable national significance and is in large part dependent on a spectacular, highly scenic, and world renowned shoreline which demands a sensitive and carefully planned offshore energy development program; and

"Whereas, The offshore oil and gas development plan fails to assure the protection of unique and sensitive coastal environments, as well as of endangered and sensitive species, such as the elephant seal and other marine mammals, and is particularly inadequate with respect to lease tracts adjacent to state-designated areas of special biological significance for national marine sanctuaries: Now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California urges the United States Secretary of the Interior to revise the proposed five-year offshore oil and gas leasing plan for California so that this state's coastal environment may be more effectively preserved; and be it further

"Resolved, That the Legislature urges the Congress of the United States to enact appropriate legislation in protection of California's coastal environment; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Secretary of the Interior, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-273. A petition from a citizen of New York, NY, praying for a redress of grievances; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources, jointly, with an amendment:

S. 1196. A bill to provide for the enhanced understanding and wise use of ocean, coastal, and Great Lakes resources by strengthening the National Sea Grant College and by initiating a Strategic Coastal Research Program, and for other purposes (Rept. No. 100-135).

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Report to accompany the bill (S. 887) to extend the authorization of appropriations for and to strengthen the provisions of the Older Americans Act of 1965, and for other purposes (Rept. No. 100-136).

By Mr. BENTSEN, from the Committee on Finance, without recommendation without amendment:

S. 549. A bill to remedy injury to the United States textile and apparel industries caused by increased imports.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

William D. Hutchinson, of Pennsylvania, to be U.S. circuit judge for the third circuit;

Anthony J. Scirica, of Pennsylvania, to be U.S. circuit judge for the third circuit;

T.S. Ellis III, of Virginia, to be U.S. district judge for the eastern district of Virginia;

Charles R. Wolle, of Iowa, to be U.S. district judge for the southern district of Iowa;

Robert H. Edmunds, Jr., of North Carolina, to be U.S. attorney for the middle district of North Carolina for the term of 4 years; and

Jesse R. Jenkins, of North Carolina, to be U.S. marshal for the western district of North Carolina for the term of 4 years.

By Mr. PELL, from the Committee on Foreign Relations:

Nicholas Platt, of the District of Columbia, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of the Philippines (Exec. Rept. 100-4).

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Nicholas Platt.

Post: Manila.

Contributions, amount, date, and donee:

1. Self, $100, 10/11/84, Mike Strang/Congress.

2. Spouse, $200, 10/06/86, Mike Strang/Congress.

3. Children and Spouses: Adam, none; Oliver, none; Nicholas Jr., none.

4. Parents: Geoffrey Platt, deceased; Helm Choate Platt, deceased.

5. Grandparents: Cora Choate, deceased; Joseph Choate, deceased, Charles Platt, deceased; Eleanor Platt, deceased.

6. Brothers and Spouses:

Geofrey Platt, Jr.:

1982—10/21, $25, Les Aucoin for Congress.

1984—6/5, $100, Mike Strang for Congress.

1984—10/14, $10, Mike Strang for Congress.

1984—10/30, $100, Colorado Republican Party.

1986—3/2, $100, Colorado Republican Party.

1986—10/26, $50, Kramer '86 Committee.

Hope Platt:

1984—8/24, $200, Mike Strang for Congress.

1985—12/27, $200, Mike Strang for Congress.

1986—10/3, $200, Mike Strang for Congress.

7. Sisters and Spouses: Penlope Platt Littell, deceased; Walter Littell, none.

Richard Noyes Viets, of Florida, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Portugal (Exec. Rept. N. 100-5).

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard Noyes Viets.

Post: Lisbon, Portugal.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses: Alexandra, none; Katrina, none; Marynka, none.

4. Parents: Natalie N. Viets, none; John B. Viets, deceased more than five years.

5. Grandparents: Both sets of grandparents deceased more than five years.

6. Brothers and spouses: John B. Viets, Jr., none; Breck T. Viets, none.

7. Sisters and spouses: None.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. WEICKER, Mr. STAFFORD, Mr. GORE, Mr. SIMON, Mr. CRANSTON, Mr. WIRTH, Mr. KERRY, and Mr. RIEGLE):

S. 1575. A bill to amend the Public Health Service Act to establish a grant program to provide for counseling and testing services relating to acquired immune deficiency syndrome and to establish certain prohibitions for the purpose of protecting individuals with acquired immune deficiency syndrome or related conditions; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 1576. A bill to amend the Internal Revenue Code of 1986 to repeal the income taxation of corporations, to impose a 10-percent tax on the earned income (and only the earned income) of individuals, to repeal the estate and gift taxes, and for other purposes; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. GLENN, Mr. SPECTER, Mr. LEVIN, Mr. RIEGLE, Mr. BYRD, Mr. HEFLIN, Mr. SHELBY, Mr. LUGAR, Mr. BUMPERS, Mr. INOUYE, Mr. DURENBERGER, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. BOSCHWITZ, and Mr. SARBANES):

S. 1577. A bill to extend certain protections under title 11 of the United States Code, the Bankruptcy Code, by unanimous consent, placed on the calendar.

By Mr. STEVENS:

S. 1578. A bill to amend chapter 83 of title 5, United States Code, to provide civil service retirement credit for service performed under the Railroad Retirement Act, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. MATSUNAGA, and Mr. PELL):

S. 1579. A bill to amend the Public Health Service Act to revise and extend the Block Grant Program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WALLOP (by request):

S. 1580. A bill to amend the medical assistance program under title XIX of the Social Security Act to limit Federal financial participation in State program and administrative expenditures, to increase State flexibility to administer the State program, to make additional administrative improvements, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WALLOP:

S. Res. 262. Resolution to amend the Standing Rules of the Senate to provide that no tax increase may be enacted except with the approval of two-thirds of the Senators present and voting; to the Committee on Rules and Administration.

S. Res. 263. Resolution relative to the enrollment of certain appropriations bills; to the Committee on Rules and Administration.

S. Res. 264. Resolution to amend S. Res. 400 (94th Congress), a resolution establishing a Select Committee on Intelligence; to

the Committee on Rules and Administration.

S. Res. 265. Resolution to amend paragraph 1 of rule XVI of the Standing Rules of the Senate; to the Committee on Rules and Administration.

By Mr. GLENN (for himself, Mr. BRADLEY, Mr. CRANSTON, Mr. PELL, Mr. HELMS, Mr. QUAYLE, Mr. MOYNIHAN, Mr. KENNEDY, Mr. HUMPHREY, Mr. KERRY, Mr. HATFIELD, Mr. BOSCHWITZ, Mr. SIMON, Mr. ADAMS, Mr. MITCHELL, Mr. SARBANES, Mr. SANFORD, Mr. PROXMIRE, and Mr. GRAHAM):

S. Res. 266. Resolution expressing the sense of the Senate on future United States assistance to Pakistan; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself and Mr. WEICKER, Mr. STAFFORD, Mr. GORE, Mr. SIMON, Mr. CRANSTON, Mr. WIRTH, Mr. KERRY, and Mr. RIEGLE):

S. 1575. A bill to amend the Public Health Service Act to establish a grant program to provide for counseling and testing services relating to acquired immune deficiency syndrome and to establish certain prohibitions for the purpose of protecting individuals with acquired immune deficiency syndrome or related conditions; to the Committee on Labor and Human Resources.

AIDS FEDERAL POLICY ACT OF 1987

● Mr. KENNEDY. Mr. President, I am proud to join my colleagues in the Senate and House in sponsoring this critically important bipartisan legislation. Senators WEICKER and STAFFORD will join me in introducing a companion bill today in the Senate.

AIDS is a public health emergency of unprecedented severity and complexity. It is a threat to millions of Americans—to men and women, black and white, young and old. What is most dangerous about this enemy is its ability to conceal itself. The overwhelming majority of people carrying the AIDS virus do not know that they are infected. The principal allies of this devious killer are ignorance and fear—ignorance by those who are infected; ignorance by far too many Americans about how AIDS is and is not transmitted; fear of death, fear of infection; fear of the unknown. And for those who have the disease or carry the virus, there is the fear that they will be isolated, abandoned and discriminated against if others become aware of their predicament. In too many instances, these kinds of fears are coming true today.

As long as ignorance, fear and discrimination are permitted to persist, America will be battling AIDS in the dark. We cannot afford to continue to allow the AIDS virus to lurk in the shadows. We must provide the resources to create an expanded, national program of voluntary AIDS counseling and testing. All Americans who suspect they are infected must be given the opportunity to receive confidential testing and counseling. Every individual who volunteers to be tested deserves assurance that the result will be confidential and will not lead to discrimination in critical areas such as jobs, housing and Government services.

The only way to conquer AIDS is to bring this devastating illness into the open. We will not succeed unless infected individuals believe that it is in their own interest to come forward and obtain the guidance and assistance of health professionals. Intensive education and counseling are essential to achieve the changes in behavior that are urgently needed to halt transmission of AIDS.

The legislation we are introducing today reflects the carefully developed recommendations of the Centers for Disease Control, the U.S. Surgeon General, the American Medical Association, and a broad range of other health organizations. Perhaps the most important and impressive aspect of this legislation is that it has the virtually unanimous support of the professional public health community in the United States.

The bill provides funding for the immediate, nationwide expansion of testing and counseling programs. It provides strict safeguards for the confidentiality of test results, while giving discretion to physicians and professional counselors to disclose test information on a limited basis when there is genuine medical need.

Most importantly, this legislation establishes a clear prohibition against discrimination based on AIDS.

Enacting this sound and sensible policy is the most important step our society can take in curtailing the pain, the suffering and the dying that AIDS has unleashed on our Nation. The endorsement we have received from doctors, nurses, mental health professionals, hospitals and other health organizations is a clear signal that America is prepared to deal with AIDS as a public health issue, not an ideological issue. We intend to do all we can to speed passage of this legislation in the Congress. The health and the very lives of millions of Americans depend on it.

I ask unanimous consent that the full text of the bill be entered into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "AIDS Federal Policy Act of 1987".

SEC. 2. ESTABLISHMENT OF GRANT PROGRAM FOR COUNSELING AND TESTING RELATING TO ACQUIRED IMMUNE DEFICIENCY SYNDROME AND ESTABLISHMENT OF CERTAIN PROHIBITIONS FOR PURPOSE OF PROTECTING INDIVIDUALS WITH ACQUIRED IMMUNE DEFICIENCY SYNDROME OR RELATED CONDITIONS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by redesignating title XXIII as title XXIV;

(2) by redesignating sections 2301 through 2316 as sections 2401 through 2416, respectively; and

(3) by inserting after title XXII the following new title:

"TITLE XXIII—ACQUIRED IMMUNE DEFICIENCY SYNDROME

"SEC. 2301. DEFINITION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"For purposes of this title, the term 'infection with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from, or associated with, acquired immune deficiency syndrome.

"PART A—GRANTS FOR COUNSELING AND TESTING

"SEC. 2311. ESTABLISHMENT OF PROGRAM.

"The Secretary, acting through the Director of the Centers for Disease Control, may make grants for the purposes of—

"(1) counseling individuals with respect to acquired immune deficiency syndrome in accordance with section 2317, including counseling relating to measures for the prevention of exposure to, and transmission of, the etiologic agent for acquired immune deficiency syndrome; and

"(2) testing individuals in order to determine whether the individuals are infected with such etiologic agent.

"SEC. 2312. MINIMUM QUALIFICATIONS OF GRANTEES.

"The Secretary may not make a grant under section 2311 to an applicant unless the applicant—

"(1) is a grantee pursuant to section 317(j)(2), section 318(c), section 329, section 330, section 509A, or section 1001;

"(2) has under any appropriations Act received funds as an alternate blood testing site; or

"(3) is a public general hospital.

"SEC. 2313. PREFERENCES IN MAKING GRANTS.

"The Secretary shall, in making grants under section 2311, give preference to qualified applicants that will provide counseling and testing pursuant to such section in any geographic area in which the incidence of cases of acquired immune deficiency syndrome, as indicated by the number of such cases reported to and confirmed by the Secretary, constitutes a significant percentage of the total population of the geographic area.

"SEC. 2314. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS.

"(a) IN GENERAL.—The Secretary may not make a grant under section 2311 to an applicant unless the applicant has submitted to the Secretary an application for such a grant containing agreements in accordance with—

"(1) section 2315, relating to the confidentiality of records;

"(2) section 2316, relating to informed consent;

"(3) section 2317, relating to the provision of counseling services;

"(4) section 2318, relating to the provision of opportunities to receive anonymous counseling and testing;

"(5) section 2319, relating to requiring testing as a condition of receiving other health services;

"(6) section 2320, relating to the use of grant funds to increase the availability of counseling and testing; and

"(7) section 2321, relating to the administration of grants.

"(b) ADDITIONAL REQUIRED INFORMATION.—An application required in subsection (a) shall, with respect to agreements required to be contained in such an application, provide assurances of compliance satisfactory to the Secretary and shall otherwise be in such form, be made in such manner, and contain such information in addition to information required in subsection (a) as the Secretary determines to be necessary to carry out this part.

"SEC. 2315. REQUIREMENT WITH RESPECT TO CONFIDENTIALITY.

"The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that the applicant will, in accordance with Federal, State, and local law, ensure the confidentiality of information and records with respect to individuals counseled or tested pursuant to such section.

"SEC. 2316. REQUIREMENT WITH RESPECT TO INFORMED CONSENT.

"The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that the applicant, in conducting testing pursuant to such section, will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone counseling described in section 2317 and declaring that the decision of the individual with respect to undergoing such testing is voluntarily made.

"SEC. 2317. REQUIREMENT OF PROVISION OF CERTAIN COUNSELING SERVICES.

"(a) COUNSELING BEFORE TESTING.—The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that the applicant, before testing any individual pursuant to such section, will provide to the individual appropriate counseling with respect to—

"(1) measures for the prevention of exposure to, and transmission of, the etiologic agent for acquired immune deficiency syndrome;

"(2) the accuracy and reliability of testing for such etiologic agent;

"(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

"(4) applicable provisions of law relating to the confidentiality of the fact that the individual is undergoing counseling or testing and the confidentiality of information provided by the individual during the process of such counseling or testing, including information with respect to any disclosures that may be authorized under applicable law and information with respect to the availability of anonymous counseling and testing pursuant to section 2318;

"(5) applicable provisions of law relating to the confidentiality of the results of such counseling or testing, including information with respect to any disclosures that may be authorized by law;

"(6) applicable provisions of law relating to the reporting to, and use by, State public health authorities of the results of such testing; and

"(7) applicable provisions of law relating to discrimination against individuals infected with the etiologic agent for acquired immune deficiency syndrome.

"(b) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that, if the results of testing conducted pursuant to such section indicate that an individual is not infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will review for the individual the information provided under subsection (a) with respect to measures for the prevention of exposure to, and transmission of, such etiologic agent and with respect to the accuracy and reliability of testing for such etiologic agent.

"(c) COUNSELING OF INDIVIDUALS WITH POSITIVE TEST RESULTS.—The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that, if the results of testing conducting pursuant to such section indicate that the individual is infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will provide to the individual appropriate counseling with respect to—

"(1) measures for the prevention of the transmission of the etiologic agent for acquired immune deficiency syndrome;

"(2) the availability in the geographic area of any appropriate services with respect to health care, including mental health care and appropriate social and support services;

"(3) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to the etiologic agent for acquired immune deficiency syndrome and any individual whom the infected individual may have exposed to such etiologic agent; and

"(4) the availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (3).

"(d) CONSTRUCTION OF SECTION.—Agreements entered into pursuant to subsections (a) through (c) may not be construed to prohibit any grantee under section 2311 from providing counseling services described in such subsections to an individual who will not undergo testing described in section 2311(2) as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

"SEC. 2318. REQUIREMENT OF PROVISION OF OPPORTUNITIES FOR ANONYMOUS COUNSELING AND TESTING.

"The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that the applicant will, to the extent permitted under applicable State law, offer substantial opportunities for an individual—

"(1) to undergo professional counseling and testing pursuant to such section without being required to provide any information relating to the identity of the individual; and

"(2) to undergo such professional counseling and testing through the use of a pseudonym.

"SEC. 2319. PROHIBITION AGAINST REQUIRING TESTING AS CONDITION OF RECEIVING OTHER HEALTH SERVICES.

"The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing described in section 2311(2) as a condition of receiving the health services unless such testing is medically necessary in the provision of the health services sought by the individual.

"SEC. 2320. REQUIREMENT OF INCREASED AVAILABILITY OF COUNSELING AND TESTING.

"With respect to any applicant for a grant under section 2311 that, during the majority of the 180-day period preceding the effective date of this title, carried out a program of counseling or testing with respect to acquired immune deficiency syndrome, the Secretary may not make a grant under such section to the applicant unless the applicant agrees that grant funds will be expended only for the purpose of significantly increasing the availability of such counseling and testing provided by the applicant above the level of availability provided during such period.

"SEC. 2321. REQUIREMENTS WITH RESPECT TO ADMINISTRATION OF GRANT.

"The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that—

"(1) the applicant will not expend amounts received pursuant to such section for any purpose other than the purposes described in such section;

"(2) if the applicant imposes a charge for providing counseling and testing described in such section, the applicant will provide such counseling and testing without regard to the ability of the individual involved to pay such charge;

"(3) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant; and

"(4) the applicant will not expend more than 10 percent of amounts received under such section for the purpose of administering such amounts.

"SEC. 2322. PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) IN GENERAL.—Upon the request of a grantee under section 2311, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing counseling and testing described in section 2311 and, for such purpose, may detail to the grantee any officer or employee of the Department of Health and Human Services.

"(b) LIMITATION.—

"(1) With respect to a request described in subsection (a), the Secretary—

"(A) may not comply with such a request unless the Secretary has not yet disbursed the full amount of the grant to the grantee and the portion not yet disbursed is not less than an amount equal to the fair market value of any supplies, equipment, or services to be provided by the Secretary; and

"(B) shall reduce the amount to be disbursed under section 2311 to the applicant by an amount equal to such fair market value.

"(2) Amounts withheld by the Secretary under paragraph (1)(B) shall be available to the Secretary for the payment of expenses incurred in providing supplies, equipment, or services under subsection (a).

"SEC. 2323. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $400,000,000 for each of the fiscal years 1988 through 1990.

"PART B—CONFIDENTIALITY WITH RESPECT TO COUNSELING AND TESTING

"SEC. 2331. PROHIBITION AGAINST DISCLOSURE OF CERTAIN INFORMATION OBTAINED FROM PROCESS OF COUNSELING OR TESTING.

"(a) IN GENERAL.—Except as provided in section 2332, 2333, or 2334, a person described in subsection (b) may not disclose identifying information with respect to a protected individual or a contact of such individual.

"(b) PERSONS SUBJECT TO PROHIBITION.—A person referred to in subsection (a) is a person who obtains identifying information with respect to a protected individual or a contact of such individual as a result of—

"(1) direct or indirect involvement in the process of providing to the protected individual professional counseling with respect to acquired immune deficiency syndrome, which professional counseling is provided in relation to testing described in paragraph (2) (including such counseling provided as a result of a referral from a person carrying out such testing) and is provided under conditions in which the protected individual can reasonably expect that information provided by the individual will remain confidential;

"(2) direct or indirect involvement in the process of testing a protected individual for the purpose of determining whether the individual is infected with the etiologic agent for acquired immune deficiency syndrome;

"(3) direct or indirect involvement in the process of carrying out a purpose for which an authorized disclosure is made under section 2332, 2333, or 2334; or

"(4) reading any record containing identifying information with respect to a protected individual or a contact of such individual, which record is developed in the process of such counseling or testing or is developed in the process of carrying out such a purpose.

"(c) ESTABLISHMENT OF CIVIL MONEY PENALTY, CIVIL CAUSES OF ACTION, AND CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—

"(1)(A) Any person who violates the prohibition established in subsection (a) shall be liable to the United States for a civil penalty in an amount not to exceed $2000 for each such violation.

"(B) A civil penalty under subparagraph (A) for a violation of subsection (a) shall be assessed by the Secretary by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Secretary shall provide written notice to the person who is the subject of the proposed order informing the person of the opportunity to receive a hearing on the record with respect to the proposed order. Such person may not receive such a hearing unless, before the expiration of the 15 day-period beginning on the date such notice is received by the person, the person makes a request for the hearing.

"(C) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty imposed pursuant to subparagraph (A).

"(D) If the Secretary issues an order pursuant to subparagraph (B), the person who is the subject of the order may not seek judicial review of the order after the expiration of the 30-day period beginning on the date the order is issued.

"(E)(i) If a person fails to pay a civil penalty assessed pursuant to subparagraph (A), the Secretary may, subject to clause (ii), commence a civil action in any court of competent jurisdiction for the purpose of recovering the amount assessed and an amount representing interest computed in accordance with prevailing interest rates. In such an action, the decision of the Secretary to issue the order, and the amount of the penalty assessed by the Secretary, shall not be subject to review.

"(ii) The civil action referred to in clause (i) may be commenced only after an order under this paragraph has become final and—

"(I) the person who is the subject of the order fails to seek judicial review of the order within the period described in subparagraph (D); or

"(II) with respect to any judicial review, the reviewing court has entered final judgment against the person.

"(2) The Secretary may commence a civil action in any court of competent jurisdiction for the purpose of obtaining temporary or permanent injunctive relief with respect to preventing a person from making a disclosure of identifying information in violation of subsection (a).

"(3) Any person who knowingly violates the prohibition established in subsection (a) may for each violation be fined in accordance with title 18, or imprisoned for not more than one year, or both.

"(4) A protected individual, or a contact of such individual, who is aggrieved as a result of the disclosure of identifying information in violation of subsection (a) may in a civil action against any person making such a disclosure obtain appropriate relief, including actual and punitive damages and a reasonable attorney's fee and cost. Such damages shall be not less than the liquidated amount of $2,000.

"SEC. 2332. AUTHORIZED DISCLOSURES BY PERSONS INVOLVED IN PROCESS OF COUNSELING OR TESTING.

"(a) CONSENT TO DISCLOSURE.—

"(1) A person described in paragraphs (1) or (2) of section 2331(b) may disclose identifying information with respect to a protected individual and a contact of such individual if—

"(A) prior to the disclosure, the protected individual has obtained the legal age of majority under the law of the State in which the individual resides and has, in accordance with paragraph (3), consented to the disclosure; or

"(B) prior to the disclosure, the protected individual is legally incompetent under the law of the State in which the individual resides and the guardian of the individual consents, in accordance with paragraph (3), to the disclosure.

"(2) A consent under paragraph (1) shall be void to the extent that the consent authorizes the recipient of the disclosure to make subsequent disclosures in the discretion of the recipient.

"(3) A consent under paragraph (1) shall—

"(A) be in writing and be dated;

"(B) be signed by the protected individual pursuant to subparagraph (A) of such paragraph or by the guardian of such individual pursuant to subparagraph (B) of such paragraph;

"(C) specify the information that is to be disclosed;

"(D) specify the person, persons, or class of persons whom the consent authorizes to make the disclosure; and

"(E) specify the person, persons, or class of persons to whom the disclosure is to be made.

"(b) DISCLOSURE WITHOUT CONSENT WITH RESPECT TO COUNSELING AND TESTING.—A person described in paragraphs (1) or (2) of section 2331(b) may disclose identifying information with respect to a protected individual and a contact of such individual if the disclosure is made—

"(1) to a health care professional for the purpose of providing to the protected individual counseling or testing described in such paragraphs; or

"(2) to the protected individual.

"(c) DISCLOSURE WITHOUT CONSENT TO STATE PUBLIC HEALTH OFFICER.—A person described in paragraphs (1) or (2) of section 2331(b) may disclose identifying information with respect to a protected individual and a contact of such individual if the disclosure is made to the State public health officer and the law of the State in which testing described in section 2331(b) is carried out requires such disclosure to the officer.

"(d) DISCLOSURE WITHOUT CONSENT WITH RESPECT TO BODILY FLUIDS AND ORGANS OF PROTECTED INDIVIDUALS.—A person described in paragraphs (1) or (2) of section 2331(b) may disclose identifying information with respect to a protected individual if the disclosure is made to a medical facility (including a blood bank) that has received or will receive blood from the protected individual for the purposes of blood transfusions, has received or will receive semen from the individual for the purposes of artificial inseminations, has received or will receive breast milk from the individual for the purposes of distribution, or has received or will receive a donation from the individual of an organ for the purposes of transplantation.

"(e) DISCLOSURES WITHOUT CONSENT UNDER FEDERAL GUIDELINES.—A person described in paragraphs (1) or (2) of section 2331(b) may disclose identifying information with respect to a protected individual if the disclosure is made to a health care professional or provider that will provide health care to the protected individual under conditions in which, as determined under guidelines issued by the Secretary, the professional or provider will be occupationally exposed to the etiologic agent for acquired immune deficiency syndrome.

"(f) CERTAIN INTRAORGANIZATION DISCLOSURES WITHOUT CONSENT.—With respect to an organization to which an authorized disclosure is made under any of subsections (a) through (e), a person receiving on behalf of the organization the identifying information involved may disclose within the organization such identifying information with respect to the protected individual (and, if authorized under the subsection involved, any contact of such individual) as may be medically necessary with respect to carrying out the purpose for which the authorized disclosure is made.

"SEC. 2333. AUTHORIZED REDISCLOSURE BY PERSONS RECEIVING DISCLOSURES WITH RESPECT TO PROCESS OF COUNSELING OR TESTING.

"(a) REDISCLOSURE OF INFORMATION RECEIVED FROM COUNSELING OR TESTING FACILITY.—Any person who, under any of subsections (a) through (f) of section 2332, receives an authorized disclosure may disclose the identifying information involved to any other person to whom such an authorized disclosure may be made under any of such subsections.

"(b) REDISCLOSURE OF INFORMATION RECEIVED FROM RECIPIENT OF DISCLOSURE FROM COUNSELING OR TESTING FACILITY.—Any person who, under subsection (a), receives an authorized disclosure may disclose the identifying information involved to any other person to whom such an authorized

disclosure may be made under any of subsections (a) through (f) of section 2332.

"SEC. 2334. COURT ORDERS WITH RESPECT TO DISCLOSURE OF IDENTIFYING INFORMATION.

"(a) IN GENERAL.—A court of competent jurisdiction may, upon appropriate application to the court by the State public health officer, order any person described in section 2331(b) to make a disclosure to the health officer of identifying information with respect to a protected individual and a contact of such individual if the court determines that the disclosure is necessary with respect to preventing a clear and imminent danger of the transmission of the etiologic agent for acquired immune deficiency syndrome.

"(b) OPPORTUNITY TO PARTICIPATE IN PROCEEDINGS.—Before requiring a disclosure under subsection (a), the court shall provide to the protected individual (and to any contact of such individual with respect to whom identifying information is sought) a reasonable opportunity to participate in the proceedings for determining whether a disclosure will be ordered.

"(c) CONFIDENTIALITY OF PROCEEDINGS.—Proceeding under subsection (a) shall be conducted in camera. Any references in court documents to the the parties in such proceeding shall be references to pseudonyms for the parties. Records developed in such proceeding shall be sealed at the close of such proceeding.

"(d) EXTENT OF ORDERED DISCLOSURE.—A court shall, in requiring a disclosure under subsection (a), order such disclosure only to the extent necessary to provide the requested relief and shall prohibit any unnecessary such disclosure.

"SEC. 2335. DISCLOSURES WITHOUT CONSENT WITH RESPECT TO CERTAIN CONTACTS OF PROTECTED INDIVIDUALS.

"A person described in paragraphs (1) or (2) of section 2331(b) may disclose identifying information with respect to a protected individual if—

"(1) such person is a physician or a professional counselor;

"(2) the disclosure is made to the spouse of the protected individual or to an individual whom the protected individual has, during the process of professional counseling or testing described in such paragraphs, identified as being a sexual partner of the protected individual; and

"(3) such person reasonably believes that—

"(A) the disclosure is medically appropriate; and

"(B) the protected individual will not inform such spouse or sexual contact with respect to the identifying information involved.

"SEC. 2336. REQUIREMENT OF CERTAIN NOTIFICATIONS WITH RESPECT TO DISCLOSURE OF IDENTIFYING INFORMATION.

"(a) IN GENERAL.—Except as provided in subsection (b), any person who, under section 2332, 2333, or 2334, discloses any identifying information with respect to a protected individual shall—

"(1) ensure that such disclosure, whether made orally or in writing, is accompanied by a written statement declaring that any subsequent disclosure of the information provided may be prohibited by law; and

"(2) with respect to a living protected individual, notify such individual in writing of the fact of such disclosure.

"(b) EXCEPTIONS.—The requirements established in subsection (a) shall not apply to any authorized disclosure made under section 2322 or 2333 to a person who is part of the same organization as the person who makes the authorized disclosure.

"SEC. 2337. DEFINITIONS.

"For purposes of this part:

"(1) The term 'contact of a protected individual' means any individual with respect to whom a protected individual has, during the process of professional counseling or testing described in section 2331(b), provided information indicating that the individual is, or may be, infected with the etiologic agent for acquired immune deficiency syndrome.

"(2) The term 'identifying information' means any information—

"(A) relating to the identity of an individual who is a protected individual, or who is a contact of such individual, whichever is indicated by the context of usage; and

"(B) provided in a context indicating that the individual has undergone, is undergoing, or will undergo, professional counseling or testing described in section 2331(b) (including a context indicating the results of such professional counseling or testing of the individual).

"(3) The term 'protected individual' means an individual—

"(A) who has undergone professional counseling or testing as described in section 2331(b), regardless of whether such counseling or testing has been Federally funded; or

"(B) who has, with respect to undergoing such professional counseling or testing, disclosed his or her identity to a person who provides such professional counseling or testing.

"(4) The term 'records' includes electronic recordings and any other method of storing information.

"(5) The term 'testing for the purpose of determining whether an individual is infected with the etiologic agent for acquired immune deficiency syndrome' includes any diagnosis of such infection made by a health care professional licensed to make such a diagnosis under the law of the State in which the diagnosis is made.".

"PART C—INAPPROPRIATE USE OF CERTAIN INFORMATION RELATING TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"SEC. 2341. PROHIBITION AGAINST DISCRIMINATION.

"(a) IN GENERAL.—

"(1) A person may not discriminate against an otherwise qualified individual in employment, housing, public accommodations, or governmental services, solely by reason of the fact that such individual is, or is regarded as being, infected with the etiologic agent for acquired immune deficiency syndrome.

"(2) A person may not discriminate against an otherwise qualified individual in the provision of benefits under any program or activity that receives or benefits from Federal financial assistance solely by reason of the fact that such individual is, or is regarded as being, infected with the etiologic agent for acquired immune deficiency syndrome.

"(b) CONSTRUCTION.—With respect to an individual who is infected with the etiologic agent for acquired immune deficiency syndrome, the individual may not under subsection (a) be considered to be otherwise qualified if—

"(1) under guidelines issued by the Secretary, a bona fide medical determination is made that the individual will, under the specific circumstances involved, expose other individuals to a material risk of being infected with such etiologic agent; or

"(2) the individual, with reasonable accommodation, cannot satisfy bona fide essential criteria for—

"(A) employment, housing, public accommodations, or governmental services; or

"(B) the receipt of benefits under any program or activity that receives or benefits from Federal financial assistance.

"(c) PROGRAM OR ACTIVITY.—As used in this section the term 'program or activity' shall be applied in the same manner as prescribed by section 504 of the Rehabilitation Act of 1973, including amendments enacted after the date of enactment of this title.

"SEC. 2342. ESTABLISHMENT OF CIVIL MONEY PENALTY AND CIVIL CAUSES OF ACTION FOR VIOLATION OF PROHIBITION.

"(a) CIVIL MONEY PENALTY.—

"(1) Any person who violates the prohibition established in section 2341 shall be liable to the United States for a civil penalty in an amount not to exceed $2000 for each such violation.

"(2) A civil penalty under paragraph (1) for a violation of section 2341 shall be assessed by the Secretary by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Secretary shall provide written notice to the person who is the subject of the proposed order informing the person of the opportunity to receive such a hearing with respect to the proposed order. Such person may not receive such a hearing unless, before the expiration of the 15 day-period beginning on the date such notice is received by the person, the person makes a request for the hearing.

"(3) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty imposed pursuant to paragraph (1).

"(4) If the Secretary issues an order pursuant to paragraph (2), the person who is the subject of the order may not seek judicial review of the order after the expiration of the 30-day period beginning on the date the order is issued.

"(5)(A) If a person fails to pay a civil penalty assessed pursuant to paragraph (1), the Secretary may, subject to subparagraph (B), commence a civil action in any court of competent jurisdiction for the purpose of recovering the amount assessed and an amount representing interest computed in accordance with prevailing interest rates. In such an action, the decision of the Secretary to issue the order, and the amount of the penalty assessed by the Secretary, shall not be subject to review.

"(B) The civil action referred to in subparagraph (A) may be brought only after an order under this subsection has become final and—

"(i) the person who is the subject of the order fails to seek judicial review of the order within the period described in paragraph (4); or

"(ii) with respect to any judicial review of the order, the reviewing court enters final judgment against the person.

"(b) INJUNCTIVE RELIEF.—The Secretary may commence a civil action in any court of competent jurisdiction for the purpose of obtaining temporary or permanent injunctive relief with respect to preventing a person from being discriminated against in violation of section 2341. Any aggrieved party shall have an unconditional right to intervene in an action pursuant to this subsection, in accordance with the provisions of Rule 24(a) of the Federal Rules of Civil Procedure.

"(c) CIVIL CAUSE OF ACTION FOR DAMAGES.—Any person who is discriminated against in violation of section 2341 may in a civil action against any person engaging in such discrimination obtain appropriate relief, including actual and punitive damages. Such damages shall be not less than the liquidated amount of $2,000.

"(d) ATTORNEYS' FEES.—In an action under this section, the prevailing party shall be awarded a reasonable attorneys' fee and costs.

"SEC. 2343. CONSTRUCTION OF PROHIBITION.

"Section 2341 may not be construed to prohibit any business organization providing life insurance or health insurance from requiring any applicant for such insurance to undergo testing for the purpose of determining whether the applicant is infected with the etiologic agent for acquired immune deficiency syndrome.".

SEC. 3. CONFORMING AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 465(f), by striking "2301" and inserting "2401";

(2) in section 497, by striking "2301" and inserting "2401"; and

(3) in section 305(h), by striking "2313" each place it appears and inserting "2413".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1987, or upon the date of the enactment of this Act, whichever occurs later.●

● Mr. GORE. Mr. President, I am honored to join with my distinguished colleagues in introducing the AIDS Federal Policy Act of 1987. The bill is the result of an enormous amount of hard work by many devoted people. It offers no magic solutions. But at least it will provide the tools to act.

Public health experts have agreed for some time on what to do about AIDS. But the administration was not willing to do it. They have spent the past 6 years crossing their fingers and hoping that AIDS would go away.

Two months ago, the President finally addressed the issue of AIDS for the first time in his administration. Public Health experts recommended that he focus attention on expanded research and public education. But instead, the President made testing a goal in itself—doing more to set back AIDS policy in 1 day than he had already done in 6 years of silence.

Testing is not a solution. At best, it is only the means to an end. The question is not whether to test, but just what testing will enable us to do. If we test, what will we do with those who are infected?

In the absence of proper safeguards, what would happen when employers, insurers, landlords, and classmates find out? Testing would surely drive those most likely to be infected underground.

The legislation we are introducing today confronts those hard questions.

To keep testing programs from doing more harm than good, we need to enact strong laws that assure confidentiality of test results and prohibit discrimination against those who test positive. This bill will give us that reassurance—not as a matter of individual rights but as a matter of sound public health. To protect the health of the general public, we must break down the barriers that keep those most likely to be infected from obtaining proper counseling.

Tough confidentiality and antidiscrimination laws will also make clear that this fight is against a disease, not against other Americans.

Testing and counseling should be available for everyone. But in many cities, it takes as long as 3 months to be tested. This bill provides the resources, so that those most at risk will receive the one-to-one education most likely to make a difference.

The tragedy of AIDS is not only that thousands have died, or that hundreds of thousands more will suffer. It is also tragic that millions of Americans live in fear of a disease they don't understand. We know what to do about AIDS—but we need to give Americans answers, and move boldly on a strategy that will work.

This bill will work. It is only one step. But it is a sound step forward and a better answer than paralysis or fear. By joining with the Congress and the organizations represented here today to enact this bipartisan legislation, the administration has a chance to make up for lost time and lost lives.●

● Mr. WEICKER. Mr. President, today, I join my colleague, Senator KENNEDY, and others in introducing a bill to expand the availability of voluntary AIDS testing and counseling; to protect the confidentiality of AIDS testing and counseling records; and to prohibit discrimination against those who test positive for the AIDS virus. The bill we introduce today is based upon the recommendations of public health officials and the men and women of the medical community. It does not treat AIDS as a matter of politics but rather as a public health crisis that demands policies and programs based on fact and not fear.

To date, the response of Congress to the AIDS crisis has been based on information and recommendations provided by public health officials. Proposals for AIDS testing should be no exception. The Surgeon General, the Centers for Disease Control, and the National Academy of Sciences Institute of Medicine have all clearly stated that the most effective way to expand AIDS testing is to provide a large-scale voluntary testing program that incorporates counseling before and after the test is performed.

The bill we introduce this morning does just that. It authorizes a grant program for a broad spectrum of health care facilities to provide voluntary AIDS testing with pre-test and post-test counseling.

In addition to greatly expanding the availability of testing sites and services, this legislation establishes Federal protections concerning confidentiality. The bill prohibits, with limited exceptions, the disclosure of information that could identify a person who has been tested for AIDS and received counseling or could identify such persons' contacts in high-risk behavior. The exceptions provided in this bill are few and strictly limited.

Protections regarding the confidentiality of AIDS testing and counseling records are essential if we are to encourage those who have been afraid to seek such services to come forward. The confidentiality protections in the bill include penalties for violations of these protections.

Finally, this bill addresses another fear that may be discouraging many people from seeking testing—the fear of losing a job or housing or services most of us take for granted. The nondiscrimination provisions in this bill prohibit discrimination against a person who tests positive for the AIDS virus in employment, housing, public accommodations, and government services. Exceptions are allowed if a public health officer makes a bona fide medical determination that, accoridng to Centers for Disease Control guidelines, the infected person can expose another individual to a significant possibility of AIDS infection.

Some may say these protections go too far, well beyond the civil rights protections offered other members of our society. In fact, the AIDS epidemic is an extraordinary problem. It requires protections that encourage broader voluntary testing to help stop the transmission of a disease that no one wants to talk about; some fear finding out about; and still others wish to use to divide society into two classes—the infected and the uninfected. This has never been our response to those in society who are sick or who need special protections from fear and ignorance. And this should not be our response today.

Today, we must provide the dollars needed to find the treatments and cures for those already infected. We need to increase the funding for broad-based and targeted education and prevention programs that encourage—not discourage—people to come forward to be tested and receive counseling.

I have often argued that too much of the political focus on AIDS has been on who should be tested and whether the testing should be mandatory or voluntary. These debates have often obscured the real issue of thousands of deaths in our midst. We need to set our sensibilities aside and effectively help those who are already infected and limit further spread of the disease to others who are not.

This bill does both. I urge its timely adoption by the Senate.●

● Mr. WIRTH. Mr. President, today I am pleased to join Senator KENNEDY and several of my esteemed colleagues in introducing legislation to increase AIDS testing and counseling for high-risk groups, protect the confidentiality of testing and counseling records, and prevent discrimination against AIDS victims.

Acquired immune deficiency syndrome [AIDS] has afflicted more than 36,000 Americans. By 1991, it is expected that 270,000 individuals will be diagnosed as having AIDS. Add to those cases the 1.5 million Americans who are estimated to have been exposed to the AIDS virus and the dimensions of the public health crisis faced by this Nation take on overwhelming proportions.

While we do not yet know how to arrest the virus itself or cure its victims, we do know how AIDS is spread and what to do to stop it. We should use this knowledge to avoid contracting the disease by behaving in responsible ways; we should avoid spreading panic and unnecessary anxiety through misinformation and prejudice. As of now, education is the key to stopping the spread of AIDS.

However, for individuals to feel free to seek the information needed to effectively combat the spread of this fatal disease, we must ensure that testing and counseling can be sought without fear of reprisal or discrimination. This legislation provides that assurance by increasing funding for AIDS testing and counseling services and requiring that information about the recipients of those services be kept strictly confidential. Only in situations where there is a clear medical need to know, can any information about AIDS patients, or an individual's antibody status, be divulged.

Finally, this legislation takes the most important step in protecting both society and AIDS sufferers by prohibiting discrimination against them in employment, housing, public accommodations, and government services. Such broad protection has but two exceptions that I believe are both reasonable and necessary: an AIDS victim could not claim unfair job discrimination if, first, the illness limits the victim's physical capacity to perform job responsibilities, or second, the Secretary of Health and Human Services determines that transmission of the disease might occur if AIDS victims perform certain job functions.

If we believe that widespread voluntary testing and counseling are the key to bringing the AIDS epidemic under control, then we must be able to offer the individuals who cooperate something more than an eviction notice, a pink slip, and a slammed door. The specter of discrimination only serves to keep potential AIDS carriers underground, depriving them, in many cases, of any knowledge of their own infectiousness.

The Federal Government must use all of the resources at its disposal in tackling this dread disease. The effort must be multifaceted, as this legislation and other proposals introduced by Senator KENNEDY have underscored. We must continue to intensify our research efforts, increase support for education, counseling, and testing programs and provide adequate protection for AIDS victims.

I commend this measure to my colleagues and encourage its swift passage.●

By Mr. HELMS:

S. 1576. A bill to amend the Internal Revenue Code of 1986 to repeal the income taxation of corporations, to impose a 10-percent tax on the earned income (and only the earned income) of individuals, to repeal the estate and gift taxes, and for other purposes; to the Committee on Finance.

TITHE TAX ACT OF 1987

Mr. HELMS. Mr. President, recently I visited with Jim and Karen Quick, a delightful young couple from Greensboro, NC. Karen is a 12-year veteran of the Internal Revenue Service; she currently works in the IRS's Greensboro district problem resolution office.

I invited Karen and her husband to come by so that I could congratulate her and discuss with her the international award-winning essay she had written on tax policy. The essay is titled, "Tax Simplification: Let's Play Flat Ball."

In her essay, Karen compares U.S. tax laws to a frustrating ball game with constantly changing rules and few winners. "Americans are tired of playing Bracketball," she writes. "One of the most infuriating aspects of 'Bracketball' is the constant movement of the goal line. When the players get near it, the officials move it." The solution she proposes is "a simple, fair, efficient game called 'Flatball.'"

Mr. President, I have mixed feelings about the Tax Reform Act of 1986. On the one hand, Congress made a significant improvement by lowering the tax rates and reducing the number of brackets. On the other hand, many provisions were included simply to raise revenue in order to keep the bill "revenue neutral." These changes were based neither on logic nor on sound tax policy. The result was to make the tax laws even more complex and cause a number of problems for various sectors of the economy. I predict that we will have to address these problems and continue to modify the Tax Code for many years to come.

Mr. President, we have a long way to go to achieve a tax system which is simple and fair and in which the American people can have confidence. With that goal in mind, I am today introducing a 10 percent flat tax bill. I hope this bill can and will be the basis, a starting point, for a continued comprehensive study of our ever-complex tax code. The bill is similar to legislation which I proposed in the 97th Congress. A similar bill has been introduced in the House of Representatives by my distinguished friend and colleague from Illinois, PHIL CRANE.

The first part of the bill would eliminate the income tax on corporations. This recognizes the economic reality that corporations don't pay taxes, people do. Corporations only pass taxes on to consumers in the form of higher prices and to workers in the form of reduced wages. This burden falls most heavily on the poor because the poor spend a larger percentage of their income on consumption.

The corporate income tax is also passed on to shareholders in the form of reduced dividends and reduced corporate savings and investment. Since pension plans are major shareholders, the corporate tax can drastically reduce potential pension benefits to workers.

Reduced corporate savings and investment have a negative impact on economic growth and thus reduce employment opportunities. This constitutes a further hidden tax on America's workers.

Mr. President, elimination of the corporate income tax will promote efficiency in the market because all businesses will be placed on a level playing field. Tax considerations will no longer affect business decisions. Furthermore, elimination of this cost to business will also make U.S. business more competitive in the world market.

A second aspect of this plan proposes a reform of the income tax on individuals. The bill would eliminate all deductions, credits, and exemptions; provide a single exemption of $10,000 per taxpayer; and impose a 10-percent tax on all earned income.

Earned income is defined as the compensation one receives for performing work. This includes wages, salaries, fees, and fringe benefits. This does not include passive income, such as capital gains, interest income, and dividends. Furthermore, while fringe benefits are taxable, the bill eliminates valuation problems by valuing all fringe benefits at the actual cost to the employer of providing the benefit.

Mr. President, implementation of a flat tax will have a profound effect on the economy by stimulating growth in several ways. First, it will stimulate economic growth through increased savings resulting from the elimination of the tax on interest income. The increased savings will put downward pressure on interest rates and thus reduce the cost of capital.

Second, it will stimulate economic growth through the elimination of tax

on capital gains. This will encourage investment and expansion of capital funds, which will lead to more businesses and more jobs.

Third, a flat tax will stimulate economic growth by eliminating the tax on dividends. This eliminates the penalty for investing in stock and will stimulate greater capital availability for economic growth.

Finally, a flat tax brings greater efficiency to the economy by eliminating preferences in the Tax Code that interfere in economic decisions.

The exemption from taxation of the first $10,000 of earned income for each taxpayer will provide relief for low-income individuals while also providing an incentive for individuals to enter the work force. The flat 10 percent rate eliminates the disincentive for one to increase one's income that results with a highly progressive system.

Mr. President, I cannot imagine what could be more fair than a flat 10 percent tax. It makes sense both economically and administratively. Furthermore, true simplification of our tax code will go a long way toward restoring faith in our tax system.

Mr. President, I ask unanimous consent that the text of the bill and the essay entitled "Tax Simplification: Lets Play Flat Ball" that I mentioned earlier, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tithe Tax Act of 1987".

SEC. 2. REPEAL OF TAXATION OF CORPORATIONS.

The following provisions of the Internal Revenue Code of 1986 are hereby repealed:

(1) section 11 (relating to corporate income tax),

(2) section 55 (relating to alternative minimum tax) to the extent it applies to corporations,

(3) section 511 (relating to unrelated business income tax),

(4) section 531 (relating to accumulated earnings tax),

(5) section 541 (relating to personal holding company tax),

(6) section 594 (relating to alternative tax for certain mutual savings banks),

(7) section 801 (relating to tax imposed on life insurance companies),

(8) section 821 (relating to tax imposed on certain mutual insurance companies),

(9) section 831 (relating to tax on certain other insurance companies),

(10) section 852 (relating to tax on regulated investment companies),

(11) section 857 (relating to tax on real estate investment trusts), and

(12) section 882 (relating to tax on income of foreign corporations connected with United States business).

SEC. 3. 10 PERCENT INCOME TAX RATE FOR INDIVIDUALS.

Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) IN GENERAL.—There is hereby imposed on the income of every individual a tax equal to 10 percent of the excess of the earned income of such individual for the taxable year over the exemption amount for such year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) EXEMPTION AMOUNT.—

"(A) IN GENERAL.—The term 'exemption amount' means, for any taxable year, $10,000 increased (for taxable years beginning after December 31, 1988) by an amount equal to $10,000 multiplied by the cost-of-living adjustment for the calendar year in which the taxable year begins.

"(B) COST-OF-LIVING ADJUSTMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(I) the CPI for October of the preceding calendar year, exceeds

"(II) the CPI for October of 1987.

"(ii) CPI.—The term 'CPI' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

"(C) ROUNDING.—If the increase determined under this paragraph is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next highest multiple of $10).

"(2) EARNED INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'earned income' means—

"(i) wages, salaries, and other employee compensation,

"(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year, and

"(iii) the amount of dividends which are from a personal service corporation or which are otherwise directly or indirectly compensation for services.

"(B) EXCEPTIONS.—The term 'earned income' does not include—

"(i) any amount received as a pension or annuity, or

"(ii) any tip unless the amount of the tip is not within the discretion of the service-recipient.

"(C) FRINGE BENEFITS VALUED AT EMPLOYER COST.—The amount of any fringe benefit which is included as earned income shall be the cost to the employer of such benefit."

SEC. 4. REPEAL OF SPECIAL DEDUCTIONS, CREDITS, AND EXCLUSIONS FROM INCOME FOR INDIVIDUALS.

Chapter 1 of the Internal Revenue Code of 1986 is amended by striking out all specific exclusions from gross income, all deductions, and all credits against income tax to the extent related to the computation of individual income tax liability.

SEC. 5. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B of the Internal Revenue Code of 1986 (relating to estate, gift, and generation-skipping taxes) is hereby repealed.

SEC. 6. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

(b) REPEAL OF ESTATE AND GIFT TAXES.—The repeal made by section 5 shall apply to estates of decedents dying, and transfers made, after the date of the enactment of this Act.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

TAX SIMPLIFICATION

"LET'S PLAY FLATBALL"

(By Karen Quick, July 30, 1986)

(Pseudonym: Kacy Cody)

Americans are tired of playing Bracketball. Who wants to keep playing this "tax game" which has unfair, complicated rules; an unlimited fourth quarter with no timeouts; and is affiliated with an inefficient association at the point of bankruptcy? Complaints are commonplace; motivation is low; and initiative is almost nonexistent. It is a confusing and biased game. The players are involuntarily drafted for participation despite their physical conditions. Their contracts automatically renew annually requiring longer and longer playing periods. The more influencial athletes manage to gain preferential treatment from the promoters and officials. Some are allowed to sit the bench for extensive periods of time and some are even paid not to show up at all. Needless to say, this does little for team morale and enthusiasm. This favoritism puts an unnecessary burden on the rest of the team. The few remaining dedicated players, who show up for all the practices come rain or shine and who give it their best shot, look forward to high scores. It gets to be a tough game as these dedicated players are forced to compensate for the "bench sitters" and "game cutters." There is a noncommittal attitude spreading among the ranks. Partly to blame is the large staff of inconsistent coaches who have different ideas of how the game is to be played. More and more of the officials are using poor judgment to call the plays. Many illegal substitutes, illegal blockings, and intentional fouls go uncalled. A lot of bloody noses result. Nobody, including the promoters and officials, seems to know how the game is to be played. One of the most infuriating aspects of Bracketball is the constant movement of the goal line. When the players get near it, the officials move it. There are strong rumors circulating in the locker rooms that a players' strike is in the works. They are tackling an enorumous task in their efforts to change to a simple, fair, efficient game called "Flatball."

This fictitious analogy of our current system of American taxation may be somewhat exaggerated in pointing out the inherent problems. Yet, it brings to light the need for simplicity, fairness, and efficiency in our system of taxation. Such a tax reform referred to above as "Flatball" would not only provide needed revenue, it would also stimulate the economy, lighten the administrative load, and improve compliance. The most noteworthy result would be a boost to those precious intangibles; morale, motivation, and ingenuity.

To better understand the need for tax reform, some brief background information on the definition and history of American taxation will be given first. Numerous indictments of the current income tax system will follow. The last section will contain workable methods of sound income tax reform.

DEFINITION OF TAXATION

"The art of taxation consists of plucking the greatest number of feathers from a goose with the least amount of squawking." [1] This popular saying equates the unpleasant task of collecting taxes with the plucking of feathers. It implies the need for an economically balanced method that is viewed by the populous as simple, fair, and efficient.

What is a tax and why is it levied? "Tax" is defined as a compulsory contribution levied upon persons, property, or businesses for the support of government.[2] This basic definition makes not implication that taxes are imposed to resolve all the nation's financial and social problems. The tax laws were not intended to legalize social engineering as a government business. In a July 8, 1982 Wall Street Journal article by Christopher Conte, the following quotation from Senator Hatfield was given; "By attempting to solve every social and economic problem through the tax code, we have put a greater burden on the average taxpayer." [3] Taxes are not defined as vehicle to be used to subsidize special interest groups regardless of their merits. The meaning is clear and simple. Taxes are collected to pay the necessary military and civil expenses [4] that provide goods, services and order without stifling economic growth or human ingenuity.

HISTORY OF AMERICAN TAXATION

Chief Justice John Marshall stated in 1819 during the famous case of McCulloch v. Maryland "the power to tax is the power to destroy." The power to tell the citizenry how much money they must pay to make their government work must be jealously guarded.[5] The writers of the Constitution were very much aware of this fact. They knew one of the major causes of the War of Independence was the imposition of taxes by the British Parliament on the colonies without their consent.[6]

In the United States, the first income tax was enacted in 1861 to help finance the Civil War. It allowed a $600.00 exemption and levied a 3% charge on incomes below $10,000 and a 5% charge on incomes above that level. In 1864, the rates were increased to 5% and 10%.[7] Tax receipts peaked in 1866 when income tax accounted for about 25% of federal revenue. In 1871, Representative Dennis McCarthy of New York expressed the view of the income tax opponents in these words, "unequal, perjury-provoking, and crime-encouraging, because it is at war with the right of a person to keep private and regulate his business affairs and financial matters." Senator John Sherman of Ohio responded with these remarks: "When you come to examine the income tax you will find that it applies, it is true, to only about 60 thousand people; but they do not pay their proper share of other taxes. WHY? Can a rich man with an overflowing revenue consume more sugar or coffee or tea, or drink more beer or whiskey, or chew more tobacco, than a poor man? You tax tobacco at the same rate per pound, whether it is the tobacco for the wealthiest or the poorest. . . . But when in a system of taxation you are compelled to reach out to many objects, you must endeavor to equalize your general results. . . . Therefore, when it is complained that the tax on an article consumed is unjust upon the poor, because the poor have to consume a greater proportion of their income in its purchase than the rich, we answer that to countervail that we have levied a reasonable income tax upon such incomes as are above the wants and necessities of life. That is the answer and it is a complete answer; because, if you leave your system of taxation to rest solely upon consumption, without any tax upon property or income, you do make an unequal and unjust system." [8] These words of Sherman and other supporters of an income tax failed to gain a renewal of the tax. Thus, the income tax law expired in 1872 [9] because it was considered an invasion of privacy with socialistic tendencies.[10]

Between 1873 and 1893, members of Congress introduced 68 different income tax bills. In 1894, a 2% income tax on incomes over $4,000 was finally passed with much controversy. But the U.S. Supreme Court declared the tax unconstitutional and in violation of Article 1, Section 2, Paragraph 3 which says that all direct taxes must be levied among the states in proportion to their population. Congress circumvented the Supreme Court's decision by proposing a constitutional amendment on July 12, 1909.[11] The well-known sixteenth amendment was ratified on February 29, 1913 by 42 states.[12] This removed the constitutional hurdle and gave Congress the authority to tax incomes from whatever source derived; without apportionment among the several states and without regard to any census or enumeration."

After more than 40 years from the expiration of the Civil War income tax, the first legal income tax was enacted under the leadership of President Woodrow Wilson.[13] It granted a $3,000 exemption for single person and a $4,000 exemption for married couples. The graduated rate began at 1% on the first $20,000 of taxable income and ranged to a top rate of 7% on taxable incomes over $500,000. Net profits of corporations were taxed at a flat rate of 1%. Only about 0.4% of the population filed tax returns in 1913. All federal receipts amounted to about 2.6% of GNP.[14]

The next 40 years was just as stormy for the income tax. From 1913 to 1954 the income tax was part of America's struggle for survival through war and depression. By the time WWI had ended, three separate tax bills had increased tax rates nearly tenfold and exemptions had dropped significantly. But only 8% of the population paid taxes. President Warren G. Harding's Secretary of Treasury, Andrew Mellon, argued persuasviely for tax reduction to foster economic growth. He stated, "Any man of energy and initiative in this country can get what he wants out of life. But when that initiative is crippled by legislation or by a tax system which denies him the right to receive a reasonable share of his earnings, then he will no longer exert himself and the country will be deprived of the energy on which its continued greatness depends. . . . On the other hand, a decrease of taxes causes an inspiration to trade and commerce which increases the prosperity of the country. . . " [15]

With a large part of the population tired of war and taxes, Mellon's proposals gained ground. In 1921, the maximum tax rate was cut from 77% to 58% and in 1926 it was finally cut to 25%. Credit is given to Mellon and his support for tax cuts that spurred the economic boom of the 1920's. A get-rich-quick attitude pervaded the scene and many people had their shirts riding on the stock market.[16] This speculative fever prevented sound financial decisions and resulted in a rocky financial structure. Frantic transactions were prevelent. "Even the professional analyst of financial properties was sometimes bewildered when he found Co A holding a 20% interest in Co B, and Co B an interest in Co C, while C in turn invested in A, and D held shares in each of the others. But few investors seemed to care about actual worth. . . ." [17]

Until the Great Depression of the 1930's, Americans practiced the notion of a limited role for federal government with correspondingly low taxes. Except for periods of war or recession, revenues from excises and customs were sufficient to finance those activities widely regarded as federal functions. But when the Great Depression took hold, President Herbert Hoover sponsored tax increases in a vain effort to balance the budget that reduced personal allowances and pushed the top tax bracket from 25% to 63%.[18] The economy was too weak to provide sufficient revenue. Increased rates just made matters worse. Taxes were now spent on human needs as well as national defense. When World War II broke out, millions of Americans went back to work and taxes were increased. Before the war was over, rates exceeded 90% and three-fourths of the population had to pay income taxes. A "class tax" had been replaced by a "mass tax." [19] After World War II, rates were not greatly reduced. This was the first time marginal peacetime rates, even for the middle classes and corporate businesses, exceeded 40% and even 50%. The role of government had become more involved creating a much larger establishment requiring continuously larger revenue for its ever-increasing expenditures.[20] With the acceptance of a larger government establishment, people realized high tax rates were inevitable. The Internal Revenue Code of 1954 preserved high tax rates ranging from 20% to 91%. It laid the foudnation for the slow downhill slide to our current complicated, unfair tax system.

The end of the 1950's ushered in a new business term "tax planning" (a euphemism for tax avoidance) and a new profession appeared on the scene—"tax consultant." A reform introduced by President Kennedy lowered the top rate to 70%. Another tax cut, in 1969, lowered the top rate for salary income to 50%.[21] In 1981, legislation was passed to enact President Reagan's three-year 25% across the board tax cut that reduced the range to 11%-50% for all types of income [22] and introduced inflation indexing.[23] These reductions only slightly modified the progressivity of the income tax system and preserved the unfair tax expenditures and loopholes.

Tax revenue from federal, state, and local governments amounts to approximately one-third of the Gross National Product. About 35% of all government revenue is collected by the state and local levels. It is in the form of individual income taxes, corporated income taxes, sales taxes, property taxes, and various fees and charges.[24] Recent dramatic events such as Proposition 13 in California and Proposition 2½ in Massachusetts have brought some needed reform. Although reforming state and local government taxes is an important controversial subject, this paper will focus on the

[1] Footnotes at end of article.

federal tax policies that generate about 65% of all government receipts.

What are the sources of federal revenue? Nearly one-half is derived from individual income taxes. This category amounted to 49% of all federal receipts in 1982. This percentage has been as low as 12% in 1940 and stayed around 45% during the 1960's and 1970's. The fastest growing category in the federal system is the social security taxes that provided about 34% of the total revenue in 1982. Corporate income taxes as a shape of federal receipts steadily dropped throughout the 1970's. In 1982, this category generated about 8% of the revenue. Excises provided approximately 5%; estate and gift taxes brought in barely over 1% and other miscellaneous charges were just under 3% of the total receipts.[25]

Federal income taxes for individuals have increased from about $120 billion in 1974 to about $300 billion in 1982. During this same period, corporate income taxes stayed relatively flat at about $50 billion causing a decline in their share of overall federal receipts. To provide sufficient revenue for the current level of government operations, a simplified tax system would have to be capable of generating approximately $350 billion if both the individual and corporate income tax structures were overhauled.[26]

The proposal that will be recommended in this paper would replace the existing individual and corporate income taxes leaving the other aspects of the federal tax structure intact.

Why is a tax reform needed? The answer to this question could easily exceed 2,000 pages which is the approximate length of the Internal Revenue Code. Only the main indictments against the current income tax system will be covered in this paper. The four main dimensions to the inefficiency of the present system encompass economic barriers, complexity, stiffled intangibles and administrative difficulty.

Going back to the basic definition of taxation, we are reminded that the reason for the collection of taxes is to support the government as it provides necessary goods, services, and order *without* stifling economic growth or human ingenuity. Our current income tax system fails to meet the fundamental purpose of its existence. It produces too little revenue. The United States government spends more on defense and domestic programs than it collects in tax revenue. Federal taxes went from a level of 3% of the Gross National Product in 1929 to about 19% in 1982. However, government spending amounted to approximately 24% of the Gross National Product in 1982. Chronic deficits over the last two decades not only offend the notion of good fiscal housekeeping, but also injure the economy and create unnecessary distortions.[27] In fiscal year 1982, after the enactment of a large budget reduction, the federal budget still had a deficit for the 13th straight year and for the 19th time in the last 20 years. Deficits have grown in recent years at such a rate that three-fourths of the 486 billion dollars in deficit accumulated from 1962-1982 resulted since 1974. From fiscal year 1946 through 1960, deficits as a percent of Gross National Product averaged about 0.4%. Over the next ten years the deficit equivalent averaged 0.8% of the Gross National Product. But over the next eleven years, the average magnitude of the deficit rose to 2.4% of the Gross National Product.[28]

Budget deficits reduce the growth of productive capacity when the economy is operating at a high level of employment. Deficits absorb over one-half of national savings leaving less savings available for investments in productive expansions. To maintain high levels of investment, the United States must borrow from abroad. If present trends continue, the United States could easily become a net debtor to the rest of the world.[29]

Because deficits force the government to complete for available saving, interest rates remain artificially high. These high rates discourage purchases of long-term assets such as housing. They also overvalue the dollar causing a competitive disadvantage for the United States in the world market.[30]

Closely tied to the problem of persistent, chronic deficits is the accusation that the federal government has become bloated, disorganized, wasteful, and inefficient. Is the federal government too big? Donald Lambro, Washington correspondent for United Press International, would shout an emphatic "yes"! Mr. Lambro concludes, "Americans have more government than they need, more than they want, and more than they can afford. Like a riderless locomotive whose throttle has been pulled wide open, the federal government is running out of control."[31] This paper will not attempt to address the issue concerning the excessiveness of the federal government. An organized and efficient use of income taxes directly relates to the amount of revenue needed and the existence of a balanced budget.

Another economic indictment against the current tax system is that increased earnings with progressive rates cause "Bracket Creep." Inflation pushes income into higher marginal tax rates making the overall effect of "Bracket Creep" worse. Millions of Americans face high marginal tax rates that were intended for those with much higher incomes. The Treasury Department reported that in 1965 a family of four earning a median income had a tax rate of 17% which increased to 24% in 1980. For families with twice the median income the rate almost doubled from 22% to 43%. This increase was due to the progressive rate structure and inflation. "Bracket Creep" is leaving many families with less real purchasing power after taxes.[32]

For the last 20 years, each time family income rose by 10%, government receipts increased approximately 15%.[33] High marginal tax rates affect people's incentive to produce additional earnings. It impacts upon the worker's decision to work overtime or to go play tennis. The higher the marginal rate, the cheaper the price of leisure. High rates reduce capital formation and economic growth.[34] Professor Authur Laffer illustrates the relation between taxes and incentives with "Laffer Curve." He restates the concept of diminishing returns. "At some point, additional taxes so discourage the activity being taxed, such as working or investing, that they yield less revenue rather than more. There are two rates that yield the same amount of revenue: high taxes on low production; or low taxes on high production. . . . There is, however, at any one time, some rate that allows the government maximum revenue and yet does not discourage maximum production."[35] Congressman Jack Kemp in his book entitled, *An American Renaissance*, gave the following illustration: "Consider the baker who is taxed 20% on the first loaf of bread, 40% on the second loaf, 60% on the third, 80% on the fourth, and 100% on the fifth and who can produce only one loaf per day. His objective would be to increase his output and increase his income. His rewards for pushing forward on the frontiers of baking technology are reduced again and again for each additional loaf he bakes. When he is at the level of four loaves—or at the margin, the 100% tax rate—all incentive to increase his baking productivity ends because if the baker were to produce a fifth loaf of bread, it would be taxed entirely away."[36]

A fourth economic indictment against the present tax system is that loopholes and tax shelters are allowing many Americans to avoid their fair share of the tax burden. Since 1979, there has been a rapid increase in the number of tax preferences and in their revenue loss. According to the Joint Committee on Taxation and the Congressional Budget Office, there were 104 tax preferences in effect in the fiscal year 1982. These preferences caused the tax base to shrink to less than one-half of the 1982 national income. In 1981, these 104 preferences cost $229 billion in lost revenue.[37] According to the IRS publication, *Statistics of Income for 1981*, the category of itemized deduction alone reduced adjusted gross income by 24% that year or by $254.4 billion. Interest expense was the single largest itemized deduction claimed in 1981 amounting to $108.7 billion.[38] Senator Bill Bradley of New Jersey gave an example of the largest syndicated tax shelters in history. He included it in his book entitled, *The Fair Tax*, Chapter 3 appropriately subtitled, "True Tales of Amazing Tax Shelters." The example follows: "The largest syndicated tax shelters in history allows the partners to purchase 45,000 old billboards for $485 million and depreciate them over the 15-year write-off period for real estate. When the billboards are sold, they will generate a long-term capital gain taxed at preferential rates. Each investor must put up $150,000, so this shelter is only available to the big hitters. However, each was promised net tax benefits over a six-year period worth $181,950; that is the tax benefits exceeded the original investment. It this what the President meant by supply-side economics? Obviously not. No economic growth results from simple reshuffling the ownership of 45,000 existing billboards."[39] With this example it is easy to see how families who reported income in 1981 of more than $1 million paid an effective rate of only 17.7% through the use of tax shelters.[40]

In order to manipulate transactions to avoid tax, some keen minds had to connive the schemes. Out of the aproximate 46,000 active tax professionals needed to interpret the complex tax law, several thousand specialize in tax shelters.[41] Think of the talent and time expended in this tax shelter industry. It is sad to admit but our income tax system has created an industry devoted to the inefficient use of investment of capital. Our tax system encourages people to lose money for tax purposes and it encourages special interests to lobby for more and more selective relief.

To better understand the existence of tax preferences, we must recall the squeeze of inflation and the pain of high tax rates. Many groups have lobbied for selective relief before their selected representatives. The most powerful and influential got an exclusion, deduction, or credit to suit their special interest.[42] Legislators keep succumbing to the pressures of the lobbyists who keep repeating the "little ditty" made famous by Senator Russell Long of Louisiana; "Don't tax you, don't tax me, tax that

fellow behind the tree." [43] President Reagan even abandoned his "clean bill" principles to join the crowd supporting special interests before the passage of the Economic Recovery Tax Act of 1981. A New York Times editorial said; "Greed and politics are running wild on Capitol Hill, and the Nation's great economic difficulties, which were supposed to be the object of budget and tax reductions, are recklessly ignored." [44] Once again the well-being and prosperity of the nation lost out to the flawed logic of special interest groups. When will the legislators stop playing Santa Claus to influential lobbyists?

Evidenced by a newspaper article as recent as June 7, 1986, the Senate Finance Committee still insists on playing Santa Claus. The Greensboro News and Record article stated the Committee was proposing to give away more than 170 "toys" to special interest beneficiaries, such as "cellular telephones," "strawberry square," and "Chanel." Senator Howard Metzenbaum of Ohio said, "There is blatant concealment in this bill. . . . We're still trying to find all the special provisions that are hidden in those 2,847 pages." Senator Metzenbaum listed 16 specific provisions that warranted further study. What about the remaining 154 special interest provisions?" [45] Another article, one week later in the same newspaper, gave some specifics on one of the loopholes that had been proposed by the Senate. Unocal of Los Angeles was to forego paying up to $50 million of federal taxes because they had incurred a $4.4 billion debt fighting off an attempted takeover. This loophole was killed by Senator Metzenbaum's amendment but what about the remaining loopholes? [46] The whole legislative process seems to "degenerate into a scramble to see who can get the largest slices of a shrinking pie." Nobody wins in this sport of mutual plunder. Real economic expansion through fair and simple tax reform is the surest remedy for this divisive sport.[47]

Taking into consideration the high tax rates of our progressive structure, the high level of inflation, and the large number of unfair tax preferences, is it any surprise that the underground economy in the United States is growing so rapidly? A fifth indictment against the present tax system is that it encourages tax evasion. "Sheep may stand still while they are sheared, but taxpayers do not."[48] An estimated 25 million working Americans engage in both legal and illegal activities to hide all or a portion of their income from taxation. The magnitude of this problem is described by Sylvia Porter in the following manner: "A veiled economy more vast in scope than most of the individual economies of most other countries on this globe lies underneath the in-the-open economy in which tens of millions of us in the United States live. An immense proportion of all the transactions that occur in our country take place in this underground—but they are untraced in any fashion, thus uncounted, unreported and most significant, untaxed. You yourself may well be a part of it, without even being aware that you are." [49] The Internal Revenue Service estimated the 1981 loss of revenue from legal activities to be $74.7 billion. In addition, the Internal Revenue Service estimated a $9 billion tax evasion from illegal activities such as drug traffic and prostitution.[50] Some experts think the legal and illegal sources of income that do not appear in the Gross National Product is much higher than these Internal Revenue estimates. Some analysts claim that unreported income in the United States is close to a trillion dollars. For every four dollars of legal income reported, there is another one hidden from view.[51]

Why is tax cheating so prevalent? People are very dissatisfied with unfair loopholes that favor special interest, poor fiscal policies that contribute to inflation, steep graduated rates that cause "Bracket Creep" during inflationary times, government waste, and the unresponsiveness of the tax legislators to the national interest.[52] The cure for these ills is not cheating. The solution is a complete overhaul of the federal income tax system. This would not only boost the Gross National Product but remove some of the incentives to join the underground economy. Less participation in the underground economy would increase the tax base already riddled with unfair, excessive loopholes, and reduce the burden on taxpayers.

A sixth economic indictment against the current system of taxation is the disincentives and distortions it causes on saving, investing, working, and prices. High marginal tax rates discourage every productive activity. The incentives to take a risk, accept added responsibilities, and expand our Gross National Product, are dulled when a big hunk of the prize goes to somebody else.[53] "When individuals bear the full cost of their actions and are able to reap fully the gains that occur from their activities, they use resources wisely. When I bear the full cost of food, clothing, telephone service, recreation facilities and thousands of other items, you can be reasonably sure that I will conserve on my use of these items. I will not consume them unless I value the services that they provide more than the cost of the provision. Similarly, when I am able to reap the full benefits of my productive activities, you can be sure that I will undertake even unpleasant tasks when the benefits (usually personal income) exceed the costs. When individuals bear the full cost and reap the full benefits, they will use resources in a wealth-creating manner. They will engage in positive-sum economic activity. . . . Problems arise when a sizeable share of the benefits or costs emanating from economic activity accrues to nonparticipating parties. High marginal tax rates make it possible for individuals to enjoy tax deductible items at a fraction of their cost to our economy. . . . However, deductibility does not reduce the cost *to society* of the valuable resources used to produce these commodities." [54] The marketplace is far more efficient in allocating resources and setting prices than the Internal Revenue Code. The present system makes us less competitive in the world economy and prevents us from reaching our economic potential as a nation. A tax deduction is of little benefit if there is no income to subtract it from.[55]

The tax laws interfere with business decisions in an unwise, haphazard way. High marginal tax rates make consumption cheap and encourage debt instead of equity. This causes saving to decline and in turn reduces investment which is the foundation for future growth.[56] This disincentive is aggravated by inflation which pushes people into higher marginal tax brackets even though their real pre-tax income does not change.[57] Tax policy distorts income during real economic growth and inflationary periods causing consumption to become cheaper and saving more expensive.[58] "The current tax code distorts investment decisions so that economically desirable investments often appear less attractive than those where tax incentives inflate profitability. Section after section tells new investors what lines of business to enter, tells existing corporations how to go about their work, and puts a heavy tax on the profits of successful and productive corporations. The whole system makes no economic sense." [59] To improve incentives and reduce investment distortions, a tax system is needed with a much broader base that permits a low tax rate.

The second main dimension to the inefficiency of the current tax system is the complexity of the Internal Revenue Code. The legal complexity makes comprehension, compliance, and administration difficult. Transactional complexity encourages individuals and businesses to engage in complicated maneuvers to avoid taxes.[60] The lack of simplicity makes the uniform application of the tax laws difficult to achieve. It also imposes a high cost of taxation.

"It was a bizarre trial, a tax protest case. The defense lawyer didn't have a chance, but his closing argument was a humdinger. It went like this: The lawyer hefted the Internal Revenue Code and leaned on the jury box. 'I wish this book could talk,' he said plaintively. 'I wish this book could talk because it would crawl over this rail, it would crawl up into your laps, it would look up at you and it would cry, 'Nobody understands me.' "

The above segment was taken from a May 13, 1983 *Wall Street Journal* article by Caryl Conner, who was a speechwriter in the Carter White House. In her article entitled "Offering Incentives to Tax Evaders," she realizes the essential function of the Internal Revenue Code is to raise revenue but it creates tax evasion by its complexity and "revenue hemorrhage." She is critical of the Code's ambiguity, chaos, loopholes, social engineering, and unenforceability.[61] Let's not take Ms. Conner's word for it, let's go right to the source—Section 1302. "Definitions of Averageable Income; Related Definitions" states:

(a) AVERAGE INCOME.—

(1) IN GENERAL.—For purposes of this part, the term "averageable income" means the amount by which income for the computation year (reduced as provided in paragraph 2) exceed 120% of average base period income.

(2) REDUCTION.—The taxable income for the computation year shall be reduced by—

(A) The amount (if any) to which section 72(m)(5) applies; and

(B) The amounts included in the income of a beneficiary of a trust under section 667(a).

(b) AVERAGE BASE PERIOD INCOME.—For purposes of this part—

(1) IN GENERAL.—The term "average base period income" means one-fourth of the sum of the base period incomes for the base period.

It is surprising less than one-third of those eligible to reduce their tax computation by income averaging actually do so? [62] In short, Section 1301 means that if a person has a lot more income in 1984 than he (she) had in the past four years, then income averaging may lower the tax amount. Phrases such as "averageable income" and "base period income" are contained in this Code Section. The word "income" is also used. Nowhere in the two thousand pages of the Internal Revenue Code is the word "income" defined. Since tax is imposed on "income," it would be logical to expect a definition in the beginning of the Code. Congress threw darts all around the bullseye with definitions of "gross income," "adjusted gross income,"

"taxable income," "earned income," "unearned income," "ordinary income," "averageable income" and others.[63]

Tax law terminology is difficult to understand but the problem is aggravated by the use of such long sentences. A sentence in Section 170(b)(i)(A) contains 379 words; another sentence in Section 7701(a)(19) has 506 words. The Connecticut statute forbids the use of sentences longer than an average of 22 words and no sentence can be longer than 50 words.[64] To comprehend the exact meaning of some of these long Code sentences, the reader would need to construct flow charts. What kind of grade would the English high school teacher of those tax legislators give her ex-students on clarity and sentence structure?

The application of tax law is not uniform. In an attempt to understand and fairly apply the more than 2,000 pages of basic tax law, there are about 10,000 pages of tax regulations and thousands of pages of interpretations and judicial opinions.[65] Even with all this research material available, most taxpayers do not understand the tax laws. Judges do not interpret the laws uniformly. Consider the two separate cases of a Minnesota state trooper and a New Hampshire state trooper. The argument was that since the state was his employer, all the highways were the "premises" of his employer. Since he was required to eat at restaurants on the highway, the meals were "furnished for the employer's convenience on his premises." The Minnesota state trooper won the court case. Unfortunately, the state trooper in New Hampshire fared worse. The court there stated that it did not go along with this "metaphysical concept" concerning the state's territory being the "premises" of the employer. The court further stated that the meals must be "furnished in kind." With the same facts, the different states had two different rulings.[66]

Former Commissioner of the Internal Revenue Service, Jerome Kurtz, stated the Service was aware of 3.8 million taxpayers who underreported their 1979 income but an astonishing 2 million overstated their income. In addition to the confusing, verbose language of the Code, the taxpayer has to contend with complicated, lengthy forms. People turn to commercial tax preparers, IRS employees, and certified public accountants for help. Facing up to the complexity of the Code, it is understandable that these assistors and preparers do not always get the right tax amounts. Certified Public Accountants have the best record for accuracy but they are a very expensive source of help. In 1981, about 41% of all filers had their returns prepared by tax professionals with a price tag of over $1 billion.[67] To obtain a true picture of the cost of taxation, the time spent collecting and recording data must be considered as well as the time spent filling out the various forms. Taxpayers must also fund the operations of the Internal Revenue Service. Its budget grew from about $2 billion in 1978 to approximately $3 billion for 1983. Lumping all these direct and indirect costs together, taxpayers bear between $9 and $10 billion for preparing and verifying their taxes, above what they pay in income taxes.[68]

The tax laws are complex and ambiguous. They need to be reformed to impose a low flat rate on a much broader base. The laws could be simple if there were no exceptions.

The third dimension to the inefficiency of the present tax system is the negative impact upon human intangibles. In some way, all the previously discussed indictments have a stifling effect upon those precious intangibles. When disincentives and dissatisfaction are high, morale and initiative are low. This puts a damper on human ingenuity which is one of the greatest sources of improved productivity. History has proven reward, not deprivation, to be the best method for motivating people to be aspiring, risk-taking, and enterprising. Congressman Jack Kemp, in his book entitled An American Renaissance, summarizes the way our current tax system operates. Human ingenuity "isn't just amazing inventors like Edison or dramatic managerial innovators like Henry Ford. Improvements in efficiency spring from millions of creative workers, supervisors, and managers whose intimate knowledge of their tasks leads to new methods of improving products or saving costs. From this vast pool of dispersed knowledge, a market economy draws people who gamble that they have a better idea about how to provide more or better goods with fewer or cheaper resources. But they won't take those risks unless they will be rewarded if they succeed. By continually removing the incentives which reward achievement, we have created a system which taxes the imagination, ingenuity, and enterprise of the American people.[69]

The last dimension to the inefficiency of the present system of taxation is administrative difficulty. The economic barriers, excess burdens, unfair rules and repressed intangibles pose problems in collection and enforcement. Complexity, combined with inflation and high marginal rates, encourage tax avoidance and evasion. These factors increase the administrative burdens. The Internal Revenue Service employed about 85,000 people in 1983, which was about the same number as in 1979. During this same period, returns being audited because of tax shelter issues increased from 183,000 to 335,000.[70] The proportion of returns examined in 1984 was only 1.3%.[71] Administrative expenditures of the Internal Revenue Service dropped from 0.54% of revenue collected in 1975 to 0.41% in 1981 before reaching 0.48% in 1984. Over this same period, the ratio of IRS employees to total returns filed declined by 19%.[72] With taxpayers devoting more time and resources in avoidance techniques, administrative costs must increase to ensure proper compliance.

An income tax reform removing special deductions, credits and allowances would simplify enforcement. Compliance costs could be utilized more effectively if the tax system had a broad base with a low flat rate. Internal Revenue Service could concentrate on unreported income without being bogged down with verifying a proliferation of credits, exclusions, allowances and deductions. With understandable rules and low rates, a sense of fairness would be present that would foster voluntary compliance.

Having reviewed the numerous inefficiencies of the American income tax system, it is refreshing to present some workable recommendations for sound tax reform. The simplification proposals set forth in this paper will suggest fundamental changes to tax laws, forms, and procedures for the individual and corporation income taxes.

Tax legislators, accountants, administrators, most other taxpayers, and even some of the guilty tax evaders want tax reform. They just can not seem to agree on how to reform the tax laws. Some people have even developed a strong dislike for the phrase "tax reform." They cannot help but recall the numerous changes made in prior years that started out as tax simplification measures but resulted in another lost battle for efficiency and fairness.

An Internal Revenue employee shared her astonishment at the size of one estate tax return that was about two inches thick, complete with index tabs. The next day she realized that estate return was not so long compared to other tax returns that were filed in the Greensboro District of the Internal Revenue Service. Tax returns had been received that individually filled the contents of a cardboard box one foot deep. It is time to raise the confidence of all taxpayers in the income tax system. True tax reform without loopholes, steep rates, and complicated rules is urgently needed.

How could true federal income tax reform be achieved? The basic steps to true reform follow:

a. Abolish loopholes
b. Broaden the tax base
c. Change to a low, flat rate
d. Deduct a personal allowance
e. Exempt an amount for each dependent
f. File simplified forms 1040 and 1120

What are the goals of sound tax policy? After implementation of the above tax simplification, the following would result:

a. Administrative ease
b. Boosted intangibles
c. Conserved resources
d. Dynamic economy
e. Efficiency
f. Fairness

To achieve these goals for individual income taxes, the following tax law changes are recommended:

1. Repeal all individual adjustments to income, exclusions, deductions, and credits (except withholding and excess FICA credits). Depreciation would be allowed at a rate that provides an adequate cushion for inflation but would not favor one asset over another.

2. Include employee compensation, such as wages, salaries, tips, pensions, bonuses, prizes, fringe benefits, workman compensation and the market value of non-cash items.

3. Exclude employee reimbursements for business expenses and employer provided medical benefits.

4. Include income (loss) from business activities and any other income sources.

5. Allow a personal allowance of $6,000.00 for married taxpayers; $4,500.00 for head of household status, and $3,000.00 for single status.

6. Allow dependent allowances of $1,000.00 each.

7. Apply a low, flat rate against taxable income.

8. File on simplified form 1040.

9. Require residential leasor information. (Space is provided on form 1040)

10. Require withholding at the source whenever possible.

The individual income tax return, form 1040, would be used primarily to report employee compensation, dividends, interest, capital gains (losses), and the net income (loss) from sole proprietorships, partnerships, and small business corporations. Rents, royalties, and other sources of individual income would be included on form 1040. The personal and dependent allowances would provide a floor so that the poorer families would pay little or no income tax. After combining all sources of income and subtracting the allowance(s), taxable income would remain. If the amount was positive, then the flat rate

would be applied to arrive at a total income tax.[73]

The goals previously listed could be achieved by implementing the following major revisions to the corporate income tax structure:

1. Gross revenue would be reduced by ordinary and necessary business expenses provided such items were included in receipts.

2. Business expenses would include the cost of purchases of goods and services used for business purposes during the tax year.

3. Dividends paid to shareholders and reported on their returns would be excluded on the corporate return. Federal income tax would be withheld on dividends which would be reflected on the 1099-DIV forms sent to shareholders.

4. Depreciation and amortization would be allowed at a rate that provides an adequate cushion for inflation but would not favor one asset over another.

5. Exemptions and exclusions, such as the capital gain exclusion, would no longer be allowed.

6. Tax credits would be repealed. This includes investment tax credit, jobs credit, research and development credit, and business energy credit.

7. Tax would be computed on the simplified form 1120 using the same low, flat rate assessed on the individual income tax return.

8. If negative income resulted, the loss would be carried forward and interest income allowed. There would be no limit to the amount of the loss of the number of years carried forward.[74]

The underlying foundation for income tax reform for individual and corporate incomes is a much broader base with a low flat rate. The most unfair aspect of our current system is the large array of complicated loopholes that haphazardly and uneconomically grant selective relief. A wise economist commented several years ago, "Taxpayers using loopholes are a lot like a crowd of people standing tip-toed watching a parade. They are all very uncomfortable on their toes, but no one can stand flat on his feet because he would lose his view. Yet, if they all could agree to get off their toes together, they all would see just as well, and they would feel much better too." [75] Loopholes must be abolished in order to restore a sense of fairness and to encourage economic growth.

The flat rate income tax system would be fined tuned for maximum efficiency. The lowest possible rate would be applied against a broad tax base to provide sufficient revenue to fund the fiscal budget. (A temporary source of revenue to pay off the accumulated deficits will be discussed later.) A low flat rate of 10% on a very broad base has been proposed by Senator Jesse Helms.[76] Robert Hall and Alvin Rabushka first published in the Wall Street Journal their proposal for a flat tax that closely fits the consumption tax concept.[77] They are confident that a low, flat rate of 19% on individual and corporate incomes would generate more revenue than the current system and would, thus, take less time to balance the federal budget. The recommendations outlined in this paper conform to the rules of comprehensive income taxation instead of consumption taxation. The flat rate would be lower than 19% because the base would be broader. The flat rate could hoover around 10% and generate sufficient revenue to fund an efficient federal government operation.

To clean up some of the results of poor fiscal housekeeping, the flat rate could be increased. But to interfere as little as possible with saving, investing, and working decisions, a temporary source of revenue could be implemented. A national retail sales tax on nonessential, luxury goods could supplement the income taxes collected. These funds would be earmarked for paying off the accumulated deficits. Implementation would be faster and more efficient if the states were used as administrative agents. The rates should be set high enough to cover existing state retail sales taxes. This supplemental tax system could be a powerful tool to wipe out the accumulated deficits. The importance of previously discussed problems, such as reduced investments, economic distortions, and high interest rates have serious repercussions on the entire nation. Whether these deficits are funded by a slightly higher flat tax or a national retail sales tax is not as important a decision as the need to pay them off.

With simplier and fairer laws, the costs that taxpayers bear to prepare, verify, and pay their income taxes would be greatly reduced. The removal of loopholes and the expansion of the tax base would also reduce administrative costs. A low, flat tax would restore a sense of fairness that would make administration much easier. It would improve the integrity of the administrators which is the heart of voluntary compliance.

One of the key concepts to efficient tax administration is withholding at the source. Wages, pension, interest, dividends, etc., would be subject to the low flat rate. Using a withholding chart, the payer would retain and remit the income tax to the Internal Revenue Service via the quarterly employment tax return (form 941). The recipient would be issued an information document such as W-2 or 1099 showing the total income and withholdings. If the recipients had only wage and salary income, it could be possible that they would have the corret amount remitted to IRS and would not have to file a 1040 form. They would, however, be required to claim the correct filing status and number of dependents on their withholding certification (form W-4). This form would be updated annually and could require copies of birth certificates for each dependent. Annual wage statements, forms W-2, would still be issued.

Former IRS Commissioner Mortimer Chaplin estimated the following percentages of income types go unreported:

1. 35-50% of royalty and rental income.
2. 20-40% of all self-employed income.
3. 17-22% of capital gains.
4. 8-16% of dividend and interest income.[78]

The flat tax proposals would help compliance in the last category by requiring withholding at the source. Payers of royalty income would also be required to withhold at the source. Payers of residential rental income would submit an information from stating the amount and recipient of the rental income. Individual payers would be provided space on their form 1040 to give this information. A large amount of capital gain income results from real estate and stock transactions. Consideration could be given to the collection at the local government level for the income tax on real estate sales at the time the deeds are recorded. The seller could present documentation of the basis. It could be compared to the sales price to obtain the withholding amount for income taxes. When corporations sell stock, they could also compare the basis to the selling price and withhold the appropriate amount of income taxes at the flat rate. Withholding at the source and better utilization of information documents, would improve compliance.

With the repeal of loopholes, IRS would no longer utilize resources to verify a mass of deductions, exclusions, and credits. They could concentrate on sources of unreported income, the proper filing of returns, and the prompt payment of all taxes. With the implementation of the flat tax supplemented by a national retail sales tax on a temporary basis, the folks at IRS would find the laws easier to understand and enforce. Tax simplification would also improve public understanding of the tax laws and boost public confidence. Tax administrators would smile as they noticed the taxpaying public moving toward a model state of voluntary self-assessment.[79]

The proposed tax simplification set forth in this paper would establish a fair and efficient income tax system. A redirection of efforts and capital would produce real growth. A growing, efficient economy would raise national output, stimulate human intangibles, and increase the standard of living. The American dream is not a scramble for a larger piece of a shrinking pie. In the words of Congressman Jack Kemp, "We must have economic growth . . ., which means we must press ahead to gain the necessary tax . . . reforms that will permit growth. We want to excite the elusive but vital qualities of human ingenuity and effort. Qualities important not only to an economy increasingly dominated by sophisticated services, but to the well-being and happiness of our nation's people. Ingenuity is discovered only through *effort*, and intangible substance which certainly means more, much more, than putting hours. After all some people manage to retire on the job. Effort encompasses such things as a continual eagerness to acquire new knowledge and skills, a willingness to accept new responsibilities, to take the risk of initiating change. *Effort* can only be measured indirectly, by results, and the results are not only measured by personal prosperity but by the enrichment of community life as well." [80]

FOOTNOTES

[1] Robert E. Hall and Alvin Rabushka, *The Flat Tax* (Stanford, Calif.: Hoover Institution Press, Stanford University, 1985), p. 1.

[2] Sidney I. Landau, ed. in chief, *Doubleday Dictionary* (Garden City, N.Y.: Doubleday and Company, Inc., 1975.)

[3] Christopher Conte, *Wall Street Journal*, 8 July 1982.

[4] Hall and Rabushka, *The Flat Tax*, p. 1.

[5] Patricia C. Archeson, *Our Federal Government How It Works*, An Introduction to the United States Government, 4th ed. (New York: Dodd, Mead, 1984), p. 11.

[6] Ibid., p. 17.

[7] Hall and Rabushka, *The Flat Tax*, p. 19.

[8] Senator Bill Bradley, *The Fair Tax* (New York: Pocket Books, 1984), p. 70.

[9] Ibid., p. 71.

[10] Hall and Rabushka, *The Flat Tax*, p. 19.

[11] Ibid., p. 20.

[12] Senator Bill Bradley, *The Fair Tax*, p. 24.

[13] Ibid., p. 74.

[14] Hall and Rabushka, *The Flat Tax*, p. 20.

[15] Senator Bill Bradley, *The Fair Tax*, p. 75.

[16] Ibid., p. 77.

[17] Ibid., p. 78.

[18] Hall and Rabushka, *The Flat Tax*, p. 21.

[19] Senator Bill Bradley, *The Fair Tax*, p. 80.

[20] Dan Brawley, *The Subterranean Economy* (New York: McGraw-Hill, 1982), p. 4.

[21] Hall and Rabushka, *The Flat Tax*, p. 5.

[22] Ibid., P. 21.

[23] "Tax Foundation's Tax," *Features* 30 (March 1986): 2.

[24] Hall and Rabushka, *The Flat Tax*, p. 7.

[25] Ibid., p. 7.

[26] Ibid., p. 8.

[27] Henry J. Aaron and Harvey Galper, *Assessing Tax Reform* (Washington, D.C.: The Brookings Institution, 1985), p. 7.
[28] John W., Ellwood, "Balancing the Federal Budget and Limiting Federal Spending: Constitutional and Statutory Approaches," September 1982. Congress of the U.S. Congressional Budget Office, Washington, D.C., p. 9.
[29] Aaron and Galper, *Assessing Tax Reform, p. 8.*
[30] Ibid., p. 8.
[31] Donald Lambro, *Fat City: How Washington Wastes Your Taxes* (South Bend, Ind., 1980), p. xv.
[32] Hall and Rabushka, *The Flat Tax*, p. 23.
[33] Jack Kemp, *An American Renaissance: A Strategy for the 1980's* (New York: Harper & Row, 1979), p. 100.
[34] *Fairness and the Reagan Tax Cuts.* Hearing before the Point Economic Committee Congress of the U.S. 98th Congress Second Session, 12 June 1984 (Washington, D.C.: U.S. Government Printing Office, 1984), p. 8.
[35] Kemp, *An American Renaissance: A Strategy for the 1980's*, p. 50.
[36] Ibid., P. 52.
[37] Bradley, *The Fair Tax*, p. 87.
[38] Hall and Rabushka, *The Flat Tax*, p. 25.
[39] Bradley, *The Fair Tax*, p. 39.
[40] Ibid., p. 12.
[41] Ibid., p. 26.
[42] Ibid., p. 49.
[43] Ibid., p. 56.
[44] Ibid., p. 58.
[45] *Greensboro News and Record*, 7 June 1986, Washington AP.
[46] *Greensboro News and Record*, 14 June 1986, Washington AP.
[47] Kemp, *An American Renaissance: A Strategy for the 1980's*, p. 79.
[48] *Fairness and Reagan Tax Cuts*, p. 52.
[49] Jerome Tuccille, *Inside the Underground Economy* (New York: Signet, 1982), p. 68.
[50] Joseph A. Pechman, ed., *Options for Tax Reform* (Washington, D.C.: The Brookings Institution, 1984), p. 21.
[51] Tuccille, *Inside the Underground Economy*, p. 69.
[52] Pechman, *Options for Tax Reform*, p. 21.
[53] Bradley, *The Fair Tax*, p. 48.
[54] *Fairness and the Reagan Tax Cuts*, p. 54.
[55] Bradley, *The Fair Tax*, p. 51.
[56] *Fairness and the Reagan Tax Cuts*, p. 6.
[57] Ibid., p. 10.
[58] Ibid., p. 7.
[59] Ibid., p. 35.
[60] Aaron and Galper, *Assessing Tax Reform*, p. 42.
[61] Caryl Conner, "Offering Incentives to Tax Evaders," *Wall Street Journal*, 13 May 1983.
[62] Bradley, *The Fair Tax*, p. 19.
[63] Michael Savage, *Everything You Always Wanted to Know About Taxes But Didn't Know How to Ask* (New York: Dial Press, 1982), p. 3.
[64] Brawly, *The Subterranean Economy*, p. 42.
[65] Bradley, *The Fair Tax*, p. 18.
[66] Savage, *Everything You Always Wanted to Know About Taxes But Didn't Know How to Ask*, p. 34.
[67] Bradley, *The Fair Tax*, p. 26.
[68] Robert E. Hall and Alvin Rabushka, *Low Tax, Simple Tax, Flat Tax* (New York: McGraw-Hill, 1983), p. 6.
[69] Kemp, *An American Renaissance: A Strategy for the 1980's*, p. 54.
[70] Internal Revenue Service, *Annual Report of the Commissioner and Chief Counsel of the Internal Revenue Service*, 1980, p. 27; 1983, p. 11; 1984.
[71] Ibid., 1984, Table 7.
[72] Ibid., 1984, Tables 6 and 22.
[73] Archeson, *Our Federal Government How It Works, An Introduction to the United States Government*, p. 35.
[74] Ibid., p. 122.
[75] Bradley, *The Fair Tax*, p. 102.
[76] Pechman, *Options for Tax Reform*, p. 30.
[77] Hall and Rabushka, *Low Tax, Simple Tax, Flat Tax*, p. 19.
[78] Robert Buechner, *Prosper Through Tax Planning* (New York: Coward-McCann, 1983). p. 1.
[79] Brawly, *The Subterranean Economy*, p. 27.
[80] Kemp, *An American Renaissance: A Strategy for the 1980's*, p. 194.

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By Mr. STEVENS:

S. 1578. A bill to amend chapter 83 of title 5, United States Code, to provide civil service retirement credit for service performed under the Railroad Retirement Act, and for other purposes; to the Committee on Governmental Affairs.

RAILROAD SERVICE RETIREMENT CREDIT ACT

Mr. STEVENS. Mr. President, the legislation I am introducing today would provide retirement credit under the Civil Service Retirement System [CSRS] for certain Federal employees with Railroad Retirement Act service.

Since 1911, the Federal Government has employed a small number of individuals recruited from the railroad industry to implement Government rail transportation programs. These experts, all highly knowledgeable in the construction, maintenance, and operation of railroads, have been employed in five agencies of the Federal Government—the Interstate Commerce Commission [ICC], the Federal Railroad Administration [FRA], the National Transportation Safety Board [NTSB], the National Mediation Board [NMB], and the Railroad Retirement Board [RRB]. In addition, the Alaska Railroad, formerly a part of the FRA, employs individuals who have Railroad Retirement Act service.

In creating these agencies, Congress authorized the employment of these experts to promote safe rail transportation. Within the Federal Government there is now a small group of 460 employees in these agencies.

Unfortunately, those who have pursued this dual career face a serious disadvantage at retirement. During their years of railroad service, these employees contributed to and are vested in the railroad retirement system. When they were recruited into the Federal Government, however, they also contributed to and became vested in the Civil Service Retirement System. Unfortunately, Mr. President, the combined annuity for these employees from railroad retirement and civil

service retirement is significantly less than if all the service had been covered continuously under either one of the two systems. In other words, the railroad worker is penalized for moving to the civil service.

Mr. President, as pointed out by Senator Mathias with whom I cosponsored this legislation last year, this is an anomalous situation affecting a finite number of Federal employees. Just as railroad retirement is portable between railroad jobs, and civil service retirement portable between civil service jobs, railroad retirement should be portable to the civil service in this particular situation. The recruitment of qualified employees for the Federal Government is difficult enough without maintaining such counterproductive barriers to movement between the various sectors of our economy.

This legislation would allow these Federal employees, including 62 current employees of the Alaska Railroad, to deposit into the Civil Service Retirement Fund the difference between what they contributed under the Railroad Retirement Act and what they would have contributed to the Fund if they had been subject to the Civil Service Retirement System during those years of railroad service and receive one retirement from the Civil Service Retirement System.

This is a straightforward solution to what, in my judgment, is a inequitable situation for a small number of Federal employees. It is not offered without precedent. Just last year, for instance, we provided Civil Service Retirement System credit for three similarly situated groups: certain employees of DOD nonappropriated fund instrumentalities; Federal employees with pre-1969 National Guard technician service; and cadet nurses who served during World War II.

Mr. President, I ask unanimous consent that the text of my bill be included in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Service Retirement Credit Act of 1987".

SEC. 2. SERVICE CREDIT COMPUTATION.

Subsection (b) of section 8332 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (15);

(B) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) in the case of any individual who first becomes an employee of the Department of Transportation, the Interstate Commerce Commission, the National Mediation Board, the National Transportation Safety Board, or the Railroad Retirement Board on or before December 31, 1983, service performed on or after December 31, 1935, as an employee subject to the provisions of the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), if such employee—

"(A) acquires 5 years or more of creditable civilian service (other than service performed on or after December 31, 1935, as an employee subject to the provisions of such Railroad Retirement Acts); and

"(B) makes a deposit to the Fund in an amount equal to the excess of the amount which would be required under section 8334(c) of this title, but for section 8334(g)(7) of this title, over the total amount contributed by such employee under such Railroad Retirement Acts.".

SEC. 3. DEPOSITS.

Section 8334(g) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(7) service creditable under paragraph (17) of section 8332(b) of this title, except to the extent provided in subparagraph (B) of such paragraph.".

SEC. 4. INELIGIBILITY FOR ANNUITY UNDER RAILROAD RETIREMENT ACT OF 1974.

Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended by adding at the end the following new subsection:

"(i) An individual who is entitled to an annuity under subchapter III of chapter 83 of title 5, United States Code, is not eligible to receive an annuity under this section on the basis of the same service.".

By Mr. KENNEDY (for himself, Mr. DODD, Mr. MATSUNAGA, and Mr. PELL):

S. 1579. A bill to amend the Public Health Service Act to revise and extend the Block Grant Program, and for other purposes; to the Committee on Labor and Human Resources.

REAUTHORIZATION OF PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANTS

● Mr. KENNEDY. Mr. President, I am very pleased to introduce the reauthorization of the Preventive Health Services Block Grant in title XIX of the Public Health Service Act. As the Surgeon General stated in 1979 "improvement in the health status of our citizens will not be made predominantly through the treatment of disease, but rather though its prevention." In many cases the prevention block grant is the only source of funding for States to educate their citizens to prevent the development of disease.

We have already made considerable progress. Heart disease, cancer, stroke, and accidents, which are the leading causes of death and have high mortality rates in this country have declined significantly due to organized efforts on the local level. Since 1970 heart disease deaths have decreased by one-third, and stroke mortality has decreased by almost 50 percent. We must develop our preventive programs and step up our fight against the leading causes of death so that we can achieve our goals of decreased morbidity and the improved health status of our people. Preventive health funds are vital in our communities where programs reach the public directly.

The National Cancer Institute has set forth a strategy to reduce cancer mortality by 50 percent by the year 2000. Half of the progress will come through preventive strategies. Though national efforts and national leadership are essential, real progress will occur only if local programs follow suit. Local health departments must exercise their leadership by promoting health, supporting activities which promote healthy practices and working to arrest the causes of disease.

State and local health departments receive approximately one-third of their budget from the Federal Government. Though the preventive health block grant accounts for a little over 1 percent of these funds, it accounts for 66 percent of expenditures for rape prevention programs, 58 percent for hypertension control programs, and 27 percent for rodent control programs. In some States, the prevention block grant supplies nearly all the funds for these programs.

The statutory mandate requires that funds go to eight different areas, including hypertension, fluoridation, emergency medical services, community based risk reduction, rape counseling, and prevention services, demonstrations of home health services, education services, and planning of comprehensive public health services. The reauthorization I am introducing today would increase the funding for this program from $98 million to $128 million in 1988, with current service increases for 1989 and 1990.

The reauthorization would add chronic disease to the subjects of communty risk reduction and prevention activities. It would also require that States present to the Secretary of Health and Human Services the goals and objectives which they intend to accomplish with the new funds.

In 1985 and 1986, the preventive block grants were responsible for the implementation of many vital programs around the country. In Maryland a "Diabetes Hotline" was established. In Iowa, 10 cities and 1 rural water association implemented community water fluoridation. In New Hampshire, there have been two pap smear screenings programs and a program of counseling and community education projects. In Washington State, an automated referral reminder system was designed so that pharmacies could remind customers about renewals of antihypertensive medications. In South Carolina, additional water systems servicing approximately

12,000 people became fluoridated. These are just a few of the varied projects developed this past year which have benefited the citizens of these States.

In the current fiscal year, many States have equally impressive projects. Some of these include: teaching safety techniques for preschool, elementary and junior high school students to decrease sexual assault in Hawaii; creating accessible care for all patients with tuberculosis who require hospitalization in Mississippi; and increasing the number of health departments conducting comprehensive health risk appraisal programs in Ohio. Two other activities this year include a project in Rhode Island for 90,000 school-age children on smoking and alcohol, and risk reduction plans for 700 community agencies, schools, businesses and industries in Connecticut.

It is obvious that preventive block grants provide a valuable service to the community. Without these funds many States would be unable to continue necessary preventive programs or to develop new ones. We have accomplished much. But we cannot be content to stop here. With increased funding for 1988-90, preventive health activities can be expanded to enable States to undertake additional public health projects to improve the health of their citizens.

I urge my colleagues to support the reauthorization of the preventive health and health services block grant.

Mr. President, I have included a longer list of the accomplishments of this program which I would like inserted in the record.

I ask unanimous consent that the list of program accomplishments, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end thereof the following: ", $128,500,000 for the fiscal year ending September 30, 1988, $133,600,000 for the fiscal year ending September 30, 1989, and $138,900,000 for the fiscal year ending September 30, 1990".

SEC. 2. USE OF ALLOTMENTS.

Section 1904(a)(1)(C) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)(C)) is amended by inserting before the period at the end thereof the following: ", including programs designed to reduce the incidence of chronic diseases".

SEC. 3. STATE PLANS.

Section 1905 of the Public Health Service Act (42 U.S.C. 300w-4) is amended by adding at the end thereof the following new subsection:

"(e) To receive an increased allotment for fiscal year 1988 under section 1902, a State must—

"(1) prepare a plan that shall—

"(A) detail the manner in which the State will utilize the additional funds received;

"(B) contain a minimum of three and a maximum of five disease prevention areas, from the areas outlined in the Surgeon General's Report on Healthy People, to be benefited with the additional funds; and

"(C) limit the scope of operations and the size of the population to be served with the additional funds to an amount appropriate under the circumstances;

"(2) submit the plan prepared under paragraph (1) to the Secretary; and

"(3) monitor the progress of the State in meeting the objectives set forth in the plan submitted under paragraph (2).".

PROGRAM ACCOMPLISHMENTS

Mr. President, I would like to introduce for the record, this list of very fine accomplishments of this program as reported to the Association of State and Territorial Health Officials.

Arizona is revising and testing a skin cancer prevention curriculum for sixth grade students. In addition, public information is being provided throughout the State on the prevention of skin cancer.

Connecticut initiated water utility inspections and follow-up inspections. Violations that were found resulted in enforcement orders.

The District of Columbia implemented a community based cancer prevention campaign.

Firefighters on Oahu, in West Hawaii, and on Maui and Molokai in Hawaii have been trained to provide blood pressure screening at their stations and have sponsored several mass screening sites.

Ten cities and one rural water association in Iowa have implemented community water fluoridation.

In Maine 39,104 residents were screened, educated, referred and followed-up for high blood pressure.

Maryland developed a "Diabetes Hotline" which has served 162 patients and has demonstrated reductions in emergency room visits and hospital admissions among participants.

In Saginaw, Michigan rat control project 91 percent of 563 block target area have been protected.

In Alabama four branch clinical laboratories conducted 214,971 examinations on milk, water and shellfish specimens.

Minnesota implemented a comprehensive plan for the promotion of nonsmoking.

The Mississippi Rape Crisis Project responded to over 300 hotline calls and provided direct services to more than 222 individuals.

Nevada screened 12,000 individuals for hypertension.

New Hampshire has designed and funded two Pap Smear screenings, counselling and community education (on cancer risk factor reduction) projects.

More than 4,000 car seats are available for lease through local public health offices in New Mexico to medically indigent families.

Ohio provided information through a toll free AIDS Hotline to approximately 1,000 callers per month.

Oregon implemented a pilot project to collect data on all patients who are hospitalized due to injuries in order to develop prevention strategies.

In South Carolina additional water systems began fluoridating, adding an estimated 12,103 people receiving fluoridated water.

In Washington State a system was designed for an automated referral reminder system through pharmacies for their customers on hypertensive medications.

Wisconsin launched a multi-media osteoporosis awareness campaign. "Stop the Ladykiller" to reach women and health professionals in the state.

Many states have also planned impressive objectives for FY 1987. Some of these are listed below.

Alaska proposes to reduce the useage of smokeless tobacco by 15 percent of preschool and school-aged children presently "chewing."

Connecticut will assist 700 community agencies, schools, businesses and industries to adopt risk reduction programs.

Hawaii will provide primary education on violence techniques, safety techniques and sex role clarification for pre-school, elementary and junior high students in an effort to decrease the incidence of sexual assault.

Iowa will continue to offer a smoking cessation course for State of Iowa employees.

Kentucky will provide educational intervention programs for 500 special needs children and their families on alcohol abuse.

Maine will continue to monitor the effectiveness of the 1986 Workplace Smoking Law and continue enforcement procedures.

Maryland will provide high blood pressure detection referral, follow-up and education programs aimed at males under 50 and black males over 50 and in nine local health departments and through four area agencies.

Massachusetts will implement comprehensive educational workshops for 175 individuals on occupational health and safety issues affecting office workers at worksites.

Michigan proposes to increase the level of immunization of migrant children by 10 percent.

Mississippi will provide accessible care of appropriate level to all patients with tuberculosis whose medical condition requires hospitalization.

Missouri will provide influenza vaccine to 100,000 elderly and/or chronically ill persons who are at increased risk of complications from influenza.

Montana will develop low birth weight prevention pilot programs in four communities.

New Hampshire will improve public access to emergency medical care, improve radio communication between hospital, pre-hospital personnel and public safety communication center.

North Dakota will be developing a comprehensive school health curriculum (K-12) resource guide.

Rhode Island will provide a primary project for 90,000 schoolage children in 17 communities on smoking and alcohol.

South Carolina will reduce the rate of gonorrhea to 620-635 per 100,000.

South Dakota will prevent the incidence level of tuberculosis disease from exceeding 35 cases statewide.

Texas will increase the population served by fluoridated water to 257,000 people.

West Virginia will produce 26 television programs on health topics.

Wyoming will provide community public health service agencies with antibiotics for distribution to indigent sexually transmitted disease patients. ●

By Mr. WALLOP (by request):

S. 1580. A bill to amend the medical assistance program under title XIX of the Social Security Act to limit Federal financial participation in State program and administrative expenditures, to increase State flexibility to administer the State program, to make additional administrative improvements, and for other purposes; to the Committee on Finance.

MEDICAID REFORM AMENDMENTS

● Mr. WALLOP. Mr. President, today, I am introducing, at the request of the administration, the Medicaid Reform Amendments of 1987. The bill, in three titles, is designed to control program costs, provide greater flexibility to the States, and simplify administration.

I would ask that Secretary Bowen's letter of transmittal, an analysis of the bill, and the bill itself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE, REFERENCES IN ACT, AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Medicaid Reform Amendments of 1987".

(b) The amendments in the Act apply to the Social Security Act, unless otherwise specifically stated.

TABLE OF CONTENTS

TITLE I—LIMITS ON FEDERAL FINANCIAL PARTICIPATION IN STATE EXPENDITURES; INCREASED STATE FLEXIBILITY

LIMITATION ON STATES' ENTITLEMENT TO FEDERAL PAYMENTS FOR MEDICAL ASSISTANCE

SEC. 101. (a) Section 1903 (42 U.S.C. 1396b) is amended by adding after subsection (v) the following new subsection:

"(w)(1) Notwithstanding any other provision of this section, no State (other than Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, or American Samoa) shall be entitled to payment with respect to expenditures for medical assistance under paragraph (1) of subsection (a), for fiscal year 1988 or any succeeding fiscal year, in excess of such State's allotment under paragraph (2).

"(2)(A) For fiscal year 1988, the allotment of each State subject to this subsection shall be an amount which bears the same ratio to $25,246,451,000 as the amount the State is entitled to receive under paragraph (1) of subsection (a) for medical assistance expenditures for fiscal year 1986 bears to the total amount all such States are entitled to receive for such expenditures.

"(B) For fiscal year 1989 and each subsequent fiscal year, each State's allotment shall be an amount equal to its allotment for the preceding fiscal year, multiplied by the change in the MCPI (as defined in subparagraph (C)) for such subsequent fiscal year.

"(C) For purposes of this paragraph, the 'change in the MCPI' for a specified fiscal year means the ratio of (i) the annual average index of the medical care expenditure category of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics for the first fiscal year preceding such specified fiscal year, to (ii) such index as so measured for the second such preceding fiscal year.

"(3) For purposes of paragraph (2), the amounts States are entitled to receive under paragraph (1) of subsection (a) for medical assistance expenditures for fiscal year 1986 shall be the amounts approved by the Secretary before October 1, 1987, on the basis of expenditure reports received by the Secretary on or before January 31, 1987.".

(b)(1) Notwithstanding the provisions of section 1903(w) of the Social Security Act, the Secretary shall make payments totaling $300,000,000 to qualifying States, for fiscal year 1988 only, in addition to payments subject to the limitation under section 1903(w)(1), in accordance with this subsection.

(2) For purposes of this subsection, the term "qualifying State" means a State (other than Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, or American Samoa)—

(A) which applies to the Secretary before January 1, 1988, for funding under this subsection, and

(B) the Federal share of whose medical assistance expenditures for fiscal year 1988, as approved by the Secretary before July 1, 1989, in the basis of expenditure reports received by the Secretary before January 1, 1989, exceeds 108 percent of the State's allotment as determined under section 1903(w)(2)(A), and

(C) which can demonstrate either—

"(i) that the rate of increase in the Federal share of medical assistance expenditures from the 12-month period ending on September 30, 1985 to the 12-month period ending on September 30, 1987 did not exceed the percentage increase in the annual average index of the medical care expenditure category of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics (MCPI) from the 12-month period ending on September 30, 1985 to the 12-month period ending on September 30, 1987, or

(ii) that the percentage change in the Federal share of medical assistance expenditures from fiscal year 1987 to fiscal year 1988 is less than the average of the percentage changes in the Federal share of medical assistance expenditures from fiscal year 1986 to fiscal year 1987.

(3) The amount payable to a qualifying State under this subsection shall be that amount which bears the same ratio to $300,000,000 as the excess of the Federal share of the State's medical assistance expenditures for fiscal year 1988 (as determined under paragraph (2)(A)) over 108 percent of its allotment under section 1903(w)(2)(A) bears to the total of all such excess amounts for all qualifying States.

(4)(A) The Secretary shall make interim payments totaling $300,000,000 in accordance with paragraph (3) not later than July 1, 1988, to those States that appear to be qualifying States on the basis of the most recent estimates received by the Secretary as of January 1, 1988.

(B) The Secretary shall make final adjustments in payments under this subsection (including reductions and increases as necessary in payments made under subparagraph (A)) not later than July 1, 1989.

FLEXIBILITY IN DETERMINING ELIGIBILITY AND BENEFITS

SEC. 102. (a) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)(I), to read as follows:

"(A)(i) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a) (except as provid-

ed in paragraph (17)(F)), to all individuals—",

(2) by redesignating subparagraph (a)(ii) and subparagraph (B) as subparagraph (A)(ii), respectively, and by relocating subparagraph (B), as redesignated, below subparagraph (A)(ii), as redesignated;

(3) in subparagraph (A)(ii), as redesignated—

(A) by inserting ", with respect to the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a)" after "any individual described in subparagraph (A)"; and

(B) by striking out "subparagraph (A)" each place it occurs and inserting instead "clause (i)";

(4) in subparagraph (B), as redesignated—

(A) by moving the left margin one em to the left;

(B) in the matter preceding clause (I), by inserting "for making medical assistance available" before "at the option of the State";

(C) by striking out "clause (i) of this subparagraph" and "clause (i)" each place they occur and inserting instead in each place "subparagraph (A)";

(D) by redesignating subclauses (I) through (VI) as clauses (i) through (vi); and

(E) by adding at the end "and"; and

(5)(A) by striking out "and" at the end of subparagraph (C); and

(B) in subparagraph (D), by striking out all that follows "for any individual" and inserting instead "age 21 or over described in subparagraph (A)(i);".

(b) Section 1902(a)(10)(C) (42 U.S.C. 1396a(a)(10)(C)) is amended—

(1) in clause (i), by striking out "for all such groups" and all that follows and inserting instead "for all groups not described in subparagraph (A) or (B) (which shall be reasonable, and may differ with respect to income levels based on the variations between shelter costs in urban areas and rural areas);";

(2) in clause (ii), by inserting "and" at the end;

(3) in clause (iii) by striking out "and" at the end; and

(4) by striking out clause (iv).

(c) Section 1902(a)(17) (42 U.S.C. 1396a(a)(17)) is amended to read as follows:

"(17) include reasonable methods for determining eligibility for each group of individuals covered under the plan and (except as permitted under subparagraph (F)) not described in paragraph (10)(A) or subsection (1), and the amount of medical assistance that the State will pay on behalf of each covered individual, which—

"(A) except as provided in subparagraph (F), shall be the same methodology for determining income and resource eligibility for each group as would be employed under the cash assistance program described in paragraph (10(A) in effect in the State to which such group is most closely categorically related (or, in any case where the Secretary has determined in regulations that the methodology employed under such cash assistance program is inconsistent with the purposes of the program under this title, shall be such other methodology consistent with the purposes of this title as the Secretary may permit);

"(B) except as provided in subparagraph (F), provide for taking into account only such income and resources as are, as determined in accordance with regulations of the Secretary, available to the applicant or recipient;

"(C) except as required by subparagraph (A), do not take into account the financial responsibility of any individual for any applicant or recipient of assistance under the plan unless such applicant or recipient is such individual's spouse or such individual's child who is under age 21 or (with respect to States eligible to participate in the State program established under title XVI), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1614 (with respect to States which are not eligible to participate in such program);

"(D) take into account, in accordance with regulations of the Secretary, the costs of the applicant or recipient (or of individuals whose income is taken into account in determining the eligibility of the applicant or recipient), whether in the form of insurance premiums or otherwise, for medical care or for any other type of remedial care recognized under State law;

"(E) in determining the amount of income which an individual residing in a medical institution who has been determined to be eligible may be required to contribute to the cost of medical care covered under the State plan, take into account income of the applicant or recipient (other than income equal to the maximum amount of income permitted under section 1611(e)(1)(B) to an individual residing in a medical institution and eligible for supplemental security income under title XVI) to the extent that may be required by the Secretary; and

"(F) may require as a condition of eligibility of an applicant or recipient residing in a medical institution (including any applicant or recipient described in paragraph (10)), that individuals financially responsible for the applicant or recipient (as described in subparagraph (C)) pay an amount consistent with such standards as the Secretary may by regulation prescribe, which shall in no event exceed 20 percent of that portion of the total annual income of individuals financially responsible for the applicant or recipient that exceeds 200 percent of the poverty line as revised by the Secretary pursuant to section 652 of the Head Start Act and, in any case in which such individuals are required to pay, payment shall be made directly to the State;".

(d) Section 1902(f) (42 U.S.C. 1396a(f)) is amended by striking out "incurred medical expenses" each place it occurs and inserting instead "medical expenses".

(e) Section 1903(f) (42 U.S.C. 1396b(f)) is amended in paragraph (3) by striking out "incurred by such family" and inserting instead "of such family".

ELIGIBILITY OF CERTAIN INDIVIDUALS WHO BECOME INELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME OR STATE SUPPLEMENTAL PAYMENTS

SEC. 103. Section 503 of the Unemployment Compensation Amendments of 1976, Public Law 94-566, is amended by inserting ", and for every month since April 1977 for which such individual was entitled to a monthly insurance benefit under title II," after "if for such month".

STATEWIDENESS REQUIREMENT RETAINED ONLY FOR MANDATORY SERVICES TO MANDATORY ELIGIBLES

SEC. 104. Section 1902(a)(1) (42 U.S.C. 1396a(a)(1)) is amended by inserting ", with respect to the care and services listed in paragraphs (1) through (5), (7), and (17) of section 1905(a) and furnished to individuals listed in paragraph (10)(A)," after "provide that".

"FREEDOM OF CHOICE" LIMITED TO MANDATORY SERVICES TO MANDATORY ELIGIBLES

SEC. 105. Section 1902(a)(23) (42 U.S.C. 1396a(a)(23)) is amended by striking out "any individual eligible for medical assistance (including drugs) may obtain such assistance" and inserting instead "any individual listed in paragraph (10)(A) may obtain medical assistance for any of the care and services listed in paragraphs (1) through (5), (7), and (17) of section 1905(a)".

AMENDMENTS CONCERNING COPAYMENTS

SEC. 106. (a) Section 1916 (42 U.S.C. 1396o) is amended to read as follows:

"SEC. 1916. (a) The State plan shall provide, with respect to the care and services listed in paragraphs (1) through (5), (7), and (17) of section 1905(a) and furnished to individuals listed in subparagraphs (A) and (E) of paragraph (10), that—

"(1) no enrollment fees, premiums, deductibles, or similar charges will be made, and

"(2) any coinsurance or similar charges will be nominal (except that the charge for nonemergency services furnished in a hospital emergency room may be twice the nominal amount established under the State plan for hospital outpatient services).

"(b) The State plan may, at State option, provide that no deduction, cost sharing, or similar charge will be imposed under the plan with respect to any or all of the following:

"(1) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over but under age 21),

"(2) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

"(3) services furnished to any individual who is an inpatient in a hospital, skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, or

"(4) emergency services (as defined by the Secretary), or

"(5) services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled.

"(c) The State plan may provide, with respect to care and services furnished under the State plan (other than the care and services listed in paragraphs (1) through (5), (7), and (17) of section 1905(a) and furnished to individuals listed in subparagraphs (A) and (E) of paragraph (10), for—

"(1) enrollment fees, premiums, deductibles, or similar charges, in amounts left to State discretion, and

"(2) coinsurance or similar charges, in amounts left to State discretion.".

(b) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)), as previously amended by this Act, is further amended, in clause (IV) in the matter following subparagraph (E), to read as follows:

"(IV) the furnishing of an item or service to an individual without the imposition of a deductible, cost sharing, or similar charge under a State plan in accordance with subsection (a) or (b) of section 1916 shall not require the furnishing of that item or serv-

ice without the imposition of such charge to an individual not exempted from such charge under the State plan;".

ELIMINATION OF FEDERAL REQUIREMENTS CONCERNING STATE PAYMENT RATES

SEC. 107. (a) Section 1902(a)(13) (42 U.S.C. 1396a(a)(13)) is amended—

(1) in the matter preceding subparagraph (B), to read as follows:

"(13)(A) provide assurances satisfactory to the Secretary for the filing of uniform cost reports by each hospital, skilled nursing facility, intermediate care facility, and hospice, and for periodic audits by the State of such reports; and";

(2) in subparagraph (B), by striking out "that the State shall provide" and inserting instead "a description of the methodology to be used by the State in setting payment rates for hospitals, skilled nursing facilities, intermediate care facilities, and hospices, and"; and

(3) by striking out subparagraphs (D) and (E).

(b) Section 1902(a) (30) (A) (42 U.S.C. 1396a(a)(30) (A)) is amended—

(1) by striking out ", and the payment for,", and

(2) by striking out "efficiency, economy, and quality of care" and inserting instead "efficiency and economy".

(c) Section 1903(h) (42 U.S.C. 1396b(h)) is repealed.

STATE PLAN REQUIREMENT TO VERIFY THAT MEDICAL SERVICES WERE FURNISHED AS CLAIMED

SEC. 108. Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking out "and" at the end of paragraph (47),

(2) by striking out the period at the end of paragraph (48) and inserting instead "; and" and

(3) by inserting after paragraph (48) the following new paragraph:

"(49) provide for an effective method of verifying, by sampling techniques or other methods approved by the Secretary, whether services billed by all participating providers were furnished as claimed to individuals entitled to medical assistance under the State plan.".

ELIMINATION OF PENALTY FOR FAILURE TO PAY PREMIUMS FOR INDIVIDUALS ELIGIBLE FOR MEDICARE PART B BENEFITS

SEC. 109. Section 1903(b) (42 U.S.C. 1396b(b)), as previously amended by section 102(c) of this Act, is further amended by striking out paragraph (1), and by striking out the paragraph designation "(2)".

EFFECTIVE DATES

SEC. 110. (a) The amendments made by section 101 shall become effective upon enactment.

(b) The amendments made by section 102 through 109 shall not be effective with respect to any calendar quarter for which section 101 is not in effect.

TITLE II—LIMITS ON MATCHING OF ADMINISTRATIVE COSTS

ELIMINATION OF INCREASED MATCHING RATES FOR ADMINISTRATIVE COSTS

SEC. 201. Section 1903(a) (42 U.S.C. 1396b(a)) is amended by striking out paragraphs (2), (3), and (6), and redesignating paragraphs (4), (5), and (7) as paragraphs (2), (3), and (4).

REDUCTIONS IN MATCHING RATES FOR EXCESS ADMINISTRATIVE COSTS

SEC. 202. Section 1903(a) (42 U.S.C. 1396b(a)), as amended by section 201, is further amended—

(1) by striking out the period at the end of paragraph (4) and inserting a comma instead; and

(2) by adding at the end the following: "except that, in the case of any Sate other than Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, for any fiscal year after 1987, the provisions of subsection (x) (rather than the rate specified in paragraph (2), (3), or (4) shall be applied to determine the amount payable to a State with respect to that portion of its total administrative costs, after reduction of such total by the amount of adjusted core administrative costs (as defined in subsection (x)(2)(D)) that results from adjusted per recipient administrative costs (as defined in subsection (x)) in excess of 135 per centum of the national median amount of such costs for all the States.".

(b) Section 1903 of the Act is further amended by adding after and below subsection (w) the following new subsection:

"(x)(1) For purposes of applying the limitation on payments for State administrative costs prescribed in subsection (a), there shall be payable to any State to which such limitation applies an amount equal to 25 per centum of that portion of the State's adjusted per recipient administrative costs (as defined in paragraph (2)) that exceeds 135 per centum but not 160 per centum of the national median of such costs for all such States (such medians being determined as prescribed in paragraph (3)), and no amount with respect to that portion of such costs that exceeds 160 per centum of such national median.

"(2) For purposes of this section—

"(A) a State's 'per recipient administrative costs' in a fiscal year means the ratio of the amounts expended by such State during such fiscal year for the proper and efficient operation of the State plan, and for which Federal financial participation is claimed and allowed, to the unduplicated annual number of individuals receiving assistance under the State plan in such year (such ratios to be established by the Secretary on the basis of the best data available to him before April 1 of the succeeding fiscal year);

"(B) a State's 'adjusted per recipient administrative costs' in a fiscal year means that State's per recipient administrative costs (i) divided by the ratio of that State's annual average wages for State employees for such year to the median of such annual averages for all the States, using the most recent data available to the Secretary as published by the Bureau of Labor Statistics, Department of Labor, and (ii) further adjusted to the extent found necessary by the Secretary to improve the equivalence of such State's per recipient administrative costs to those of the other States, with respect to any class or classes of costs attributable to a significant change in circumstances or in required administrative activity, incurred by the State in such fiscal year for reasons that the Secretary finds (I) have affected that State disproportionately to the experience of the States generally and (II) were beyond that State's ability to control or avoid; and

"(C) the national median of the adjusted per recipient administrative costs of all the States for any fiscal year to which the limitation in subsection (a) applies shall be determined by establishing, on the basis of State claims allowed by the Secretary before the end of such fiscal year (regardless of the amount of payment, if any, under this section with respect to such claim), the median of such costs for the second preceding fiscal year, and adjusting such median by the change in the GNP deflator (as defined in subparagraph (E)) for such fiscal year;

"(D) a State's 'adjusted core administrative costs' shall be—

"(i) with respect to fiscal year 1988, $1,000,000, and

"(ii) with respect to each fiscal year thereafter, $1,000,000 adjusted by the change in the GNP deflator for such fiscal year, as defined in subparagraph (E); and

"(E) the 'change in the GNP deflator' means—

"(i) for purposes of subparagraph (D)(ii), the ratio of (I) the gross national product implicit price deflator, measured for the second quarter of the fiscal year concerned, published by the Bureau of Economic Analysis, Department of Commerce, before August 31 of such fiscal year, to (II) such deflator, as so measured, for fiscal year 1988; and

"(ii) for purposes of paragraph (2)(C), the ratio of the gross national product implicit price deflator, measured as described in clause (i)(I), to (II) such deflator, as so measured, for the second fiscal year preceding the fiscal year concerned.

"(3)(A) If, in any fiscal year after 1987, a State's adjusted per recipient administrative costs do not exceed 135 per centum of the national median of such costs for all the States, or exceed 135 per centum of such national median but not 160 per centum of such median, the Secretary shall determine (i) the additional maximum amount that, had it been expended by the State for the proper and efficient operation of the plan approved under this title, and been claimed and allowed, would have been included for purposes of determining payment under subsection (a) at the 50 percent rate pursuant to paragraph (3) thereof, and (ii) the additional maximum amount that, had it been so expended by the State, would have been so included, at the 25 percent rate specified in paragraph (1) of this subsection, and shall notify the State of the additional amounts, if any, determined under clauses (i) and (ii).

"(B) If, for any fiscal year, a State has been advised by the Secretary that, under a provision of part A of title IV relating Federal payments to the State for expenditures necessary for the proper and efficient operation of the plan approved under that part to a percentage of the national median of such expenditures, there are additional amounts that could have been included for determining payment at the 50 percent rate, or for determining payment at the 25 percent rate, then the Secretary shall also include for payment at the 50 percent rate, or at the 25 percent rate, under this section, an amount of expenditures made under the plan approved under this title equal to such additional amount or amounts (including amounts expended to carry out such plan with respect to which payment at the 25 percent rate, but not the 50 percent rate, is available).

"(C) If, for any fiscal year, the State has been notified by the Secretary of Agriculture that, under a provision of the Food Stamp Act of 1977 relating Federal payments to the State for the costs of carrying out the food stamp program under such Act to a percentage of the national median of such costs, there are additional amounts that could have been included for determining payment at the 50 percent rate, or at the 25 percent rate, the Secretary shall include for payment under this section, at the

50 percent rate, or at the 25 percent rate, an amount of expenditures made under the plan approved under this title, in a like manner as is described in subparagraph (B).

"(D) The Secretary (together with the Secretary of Agriculture, if the Food Stamp Act of 1977 contains a provision relating Federal payments for State administrative costs to a percentage of the national median of such costs) shall prescribe regulations to carry out this paragraph, but such regulations shall allow the State to determine the amounts it wishes to claim at the 50 percent and 25 percent rate, except that if the State has chosen to claim expenditures under this title for payment, or for payment at a higher rate, by reason of having adjusted per recipient administrative costs below the applicable percentage of the national median under its plan approved under part A of title IV, or below the national median of costs to carry out the Food Stamp program, then a reduction in the amount available under the Food Stamp Act of 1977 (with respect to additional costs that could have been claimed), or under part A of title IV (with respect to additional expenditures that could have been claimed), as the case may be, equal to such expenditures claimed under this title, at the appropriate matching rate, shall be applied by the Secretary of Agriculture or the Secretary, or both if appropriate.".

(c) Section 1903(b)(1) of the Act (42 U.S.C. 1396a(b)(1)) is amended by striking out "subsection (a)" and inserting instead "subsection (a) and (x)".

(d) Section 1903(b)(3) (42 U.S.C. 1396b(b)(3)) is repealed.

(e) Section 1903(r) (42 U.S.C. 1396b(r)) is repealed.

EFFECTIVE DATES

SEC. 203. (a) The amendments made by section 201 and by subsections (a), (b), (d), and (e) of section 202 shall be effective with respect to calendar quarters beginning on or after October 1, 1987.

(b) The amendment made by section 202(c) shall become effective upon enactment.

TITLE III—OTHER COST SAVING PROPOSALS AND ADMINISTRATIVE IMPROVEMENTS

AMENDMENT CONCERNING THIRD-PARTY PAYMENTS FOR MEDICAL EXPENSES

SEC. 301. Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by striking out "including—" and all that follows and inserting instead "including the collection of sufficient information (as specified by the Secretary in regulations) to enable the State to pursue claims against such third parties, with such information being collected at the time of any determination or redetermination of eligibility for medical assistance;".

CLAIMS PAYMENT REVIEW

SEC. 302. (a) Section 1902(a)(37) (42 U.S.C. 1396a(a)(37)) is amended in clause (B) by inserting "in accordance with regulations of the Secretary under section 1903(r)" after "prepayment and postpayment claims review".

(b) Section 1903 (42 U.S.C. 1396b), as amended by section 102 of this Act, is further amended by inserting after subsection (q) the following new subsection:

"(r)(1) The Secretary is authorized to promulgate regulations setting requirements for performance of prepayment and postpayment claims reviews by States pursuant to section 1902(a)(37), including requirements for monitoring and auditing payments made, and for developing and providing information to the Secretary on rates of erroneous payments.

"(2) If a State fails to perform adequate prepayment and postpayment claims reviews, in accordance with regulations pursuant to paragraph (1), the Secretary, directly or through contractual or such other arrangements as he may find appropriate, may perform such claims reviews for that State, and may establish the error rate for that State on the basis of the best data reasonably available to him.

"(3) In any case in which it is necessary for the Secretary to exercise his authority under paragraph (2), the amount that would otherwise be payable to such State under this title for quarters in which in exercises such authority shall be reduced by the costs incurred by the Secretary in performing (directly or otherwise) such claims reviews.".

REIMBURSEMENT LIMITS ON NONEMERGENCY PHYSICIAN SERVICES FURNISHED IN HOSPITAL EMERGENCY ROOMS

SEC. 303. Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 110 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (48),

(2) by striking out the period at the end of paragraph (49) and inserting instead "; and"; and

(3) by inserting after paragraph (49) the following new paragraph:

"(50)(A) provide for the establishment of limitations on reimbursement of physician services provided on an outpatient basis by hospitals (other than bona fide emergency services as defined in paragraph (B)), which limitations—

"(i) shall be reasonably related to the charges in the same area for similar services provided elsewhere, and

"(ii) shall provide for exceptions in cases where similar services are not generally available in physicians' offices in the area to individuals eligible for medical assistance under the State plan.

"(B) For purposes of paragraph (A), the term 'bona fide emergency services' means services provided in a hospital emergency room after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(i) placing the patient's health in serious jeopardy;

"(ii) serious impairment to bodily functions; or

"(iii) serious dysfunction of any bodily organ or part."

AUTHORITY TO WAIVE REQUIREMENTS WITH RESPECT TO THE TERRITORIES

SEC. 304. Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking out "American Samoa" the first place it occurs and inserting instead "Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa".

TRANSFER OF MEDICARE PART B PREMIUMS TO SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

SEC. 305. (a) Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by striking out "(including expenditures for premiums under part B of title XVIII" and all that follows and inserting instead "(including expenditures for insurance premiums, other than premiums under part B of title XVIII, for medical or any other type of remedial care or the cost thereof), reduced by an amount equal to the non-Federal share of premiums under part B of title XVIII described in subsection (y); plus".

(b) Section 1903 (42 U.S.C. 1396b), as amended by sections 101 and 202 of this Act, is further amended by adding at the end the following new subsection:

"(y) From the sums appropriated therefor, the Secretary shall pay to the Federal Supplementary Medical Insurance Trust Fund, on behalf of each State which has a plan approved under this title, for each quarter, an amount equal to the total cost of premiums under part B of title XVIII, for individuals—

"(1) who are eligible for medical assistance under the plan, and

"(2)(A) who are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or

"(B) with respect to whom there is being paid a State supplementary payment, and who are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A).".

INTEREST PAYMENTS BY STATES ON DISPUTED CLAIMS

SEC. 306. Section 961(b) of the Omnibus Reconciliation Act of 1980 (concerning interest payments on disputed claims pursuant to section 1903(d)(5)) is amended by striking out "with respect to expenditures for services furnished on or after October 1, 1980" and inserting instead "with respect to amounts claimed by the State on or after October 1, 1980".

INELIGIBILITY OF INMATES OF CORRECTIONAL INSTITUTIONS

SEC. 307. Section 1905(a) (42 U.S.C. 1396d(a)) is amended in clause (A) by striking out "an inmate of a public institution (except as a patient in a medical institution)" and inserting instead "an inmate of a correctional institution under the control of a Federal, State or local government entity (including a private institution under contract or agreement with a State or local government)".

AUTHORITY TO REQUIRE ADDITIONAL INFORMATION RELATING TO EXTENSION OF "FREEDOM OF CHOICE" WAIVER

SEC. 308. Section 1915(d) (42 U.S.C. 1396n(d)) is amended by striking out all that follows "unless the Secretary" and inserting instead", within 90 days after the date of its receipt by the Secretary, either denies such request in writing or informs the State agency in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 days of such date, denies such request.".

TRANSFERS OF ASSETS

SEC. 309. (a) Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended to read as follows:

"(c)(1)B Notwithstanding any other provision of this title, the State plan may provide for a waiver of denial of medical assistance to an individual who would otherwise be determined to be ineligible because he has disposed of resources for less than fair market value, in any instance where the State determines that such denial would work an undue hardship.".

(b) Section 1917(b)(3) (42 U.S.C. 1396p(c)(3)) is repealed.

REPEAL OF REQUIREMENT FOR COORDINATED AUDITS

SEC. 310. (a) Section 1129 (42 U.S.C. 1320a-8) is repealed.

(b) Section 1902(a)(42) (42 U.S.C. 1396a(a)(42)) is amended—

(1) by striking out "(A)", and

(2) by striking out "(B)" and all that follows and inserting a semicolon instead.

ELIGIBILITY OF CERTAIN RECIPITENTS OF VETERANS' ADMINISTRATION PENSIONS

SEC 311. Section 1133 (42 U.S.C. 1320b-3)) is amended—

(1) in subsection (a), by striking out "subsection (b)" and inserting instead "subsections (b) and (c)"; and

(2) by adding at the end the following new subsection:

"(c) The provisions of subsection (a) shall be applicable only with respect to an individual who, before October 1, 1987, either declined to make, or disaffirmed, an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 with respect to a pension paid by the Veterans' Administration, and thereby established or retained eligibility for medical assistance under a State plan under title XIX.".

TECHNICAL AND CLARIFYING AMENDMENTS

SEC. 312. (a) Section 1902(a)(27) (42 U.S.C. 1396a(a)(27)) is amended by striking out all that follows "(B)" and inserting instead "to furnish to the Secretary and the State agency such information as each may request regarding any payments claimed by such person or institution for providing services under the State plan;".

(b) Section 1903(i)(4) (42 U.S.C. 1396b(i)(4)) is amended by striking out"; the Secretary is authorized to waive the requirements of this paragraph if the State agency demonstrates to his satisfaction" and inserting instead "except where the State agency has demonstrated to the Secretary's satisfaction."

(c) Section 1903(u)(1)(C) (42 U.S.C. 1396b(u)(1)(C)) is amended by striking out "subsection (d)(3)" and inserting instead "subsection (d)(2)".

(D) Section 1905(d) (42 U.S.C. 1396d(d)) is amended in the matter preceding paragraph (1)—

(1) by striking out " 'intermediate care facility services' may include services in" and inserting instead " 'intermediate care facility' may include", and

(2) by adding", and the term "intermediate care facility services' may include services furnished in such institution (or distinct part) to such persons," before "if—".

(e)(1) Section 1910 (a)(1) (42 U.S.C. 1396i(a)(1)) is amended by striking out "certifies an institution in a State to be qualified as" an inserting instead "enters into a provider agreement with".

(2) Section 1910(a)(2) (42 U.S.C. 1396i(a)(2)) is amended by striking out "any institution which has applied for certification by him as a qualified skilled nursing facility" and inserting instead "the application of any institution to enter into a provider agreement under section 1866 as a skilled nursing facility."

(3) Section 1910 (b)(1) (42 U.S.C. 1396i(b)(1)) is amended—

(A) by striking out "certifies a facility in a State to be qualified" and inserting instead "determines that a facility in a State is qualified", and

(B) by striking out "standards for certification" and inserting instead "requirements for qualification."

(4) Section 1910(b)(2) (42 U.S.C. 1396i(b)(2)) is amended by striking out "any facility in that State which has applied for certification by him as a qualified rural health clinic" and inserting instead "the application of any facility in that State for qualification as a rural health clinic under title XVIII."

(5) Section 1910 (42 U.S.C. 1396i) is amended in the title by striking out CERTIFICATION AND".

EFFECTIVE DATE; GRACE PERIOD FOR STATE LEGISLATIVE ACTION

SEC. 313. (a) Except as otherwise explicitly provided, the amendments made by this title shall be effective with respect to calendar quarters beginning on and after October 1, 19987.

(b) In the case of a State plan for medical assistance under title XIX which the Secretay of Health and Human Services determines requires State legislation in order for the plan to meet additional requirements imposed by the amendments made by this title, the State plan shall not be regarded as failing to comply with the requirements of title XIX solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

SUMMARY OF PROPOSED MEDICAID REFORM AMENDMENTS OF 1987

SHORT TITLE, REFERENCES IN ACT, AND TABLE OF CONTENTS

Section 1 would assign the draft bill the short title the "Medicaid Reform Amendments of 1987".

TITLE I—LIMITS ON FEDERAL FINANCIAL PARTICIPATION IN STATE EXPENDITURES; INCREASED STATE FLEXIBILITY

Limitation on States' entitlement to Federal payments for medical assistance

Section 101 would limit States' entitlement to Federal matching payments with respect to medical assistance expenditures under title XIX of the Social Security Act ("the Act"). For FY 1988 Federal matching payments would be limited to $25,246,451,000; each State's share of this amount would be proportional to its share of Federal matching payments for FY 1986. For FY 1989 and succeeding fiscal years, each State's limit would be its FY 1988 ceiling, indexed by the medical care component of the Consumer Price Index (MCPI). This amendment would not apply to the territories, whose Federal matching payments are already capped.

For FY 1988 only, the Secretary would be authorized to distribute additional funds appropriated, up to a ceiling of $300 million, in additional grants to States whose Federal medical assistance payments, but for their ceiling, would be more than 108 percent of such payments as limited by the ceiling, and that either (1) held increases in program costs below the increase in the MCPI, or (2) kept the percentage change in the Federal share of medical assistance expenditures from FY 1987 to FY 1988 below the average of the percentage changes from FY 1985 to FY 1986 and from FY 1986 to FY 1987.

Flexibility in determining eligibility and benefits

Section 102(a) would eliminate most minimum benefit requirements for the current "categorically needy" groups, retaining the requirements only for current mandatory services for the mandatory eligibles.

Subsection (b) would amend paragraph (10)(C) of section 1902(a) of the Act to eliminate the requirement that a State whose "medically needy" program includes care in institutions for mental diseases or in intermediate care facilities for the mentally retarded provide to all "medically needy" groups a minimum benefit package in accordance with statutory requirements. This subsection would also eliminate from paragraph (10(C) provisions concerning income and resource determinations for individuals other than mandatory eligibles which duplicate or overlap provisions of section 1902(a)(17) of the Act.

Subsection (c) would amend section 1902(a)(17) of the Act to contain all requirements concerning methods for determining eligibility and benefits of individuals other than mandatory eligibles.

Section 1902(a)(17)(A) would maintain the general requirement that the methodology used to determine income and resource eligibility must be the same as that of the cash assistance program for the group most closely categorically related to the optional medical assistance group, but would add authority for the Secretary to require use of alternative methodologies where he determines that the cash program rule is inconsistent with the purposes of the Medicaid program. This subparagraph would also permit departure from the cash assistance program rules with respect to proposed new authority under subparagraph (F) to permit States to require contributions from family members financially responsible for institutionalized individuals.

Section 1902(a)(17)(B) would maintain the requirement to take into account only income and resources actually available to the applicant or recipient (with the same exception as above with respect to subparagraph (F)).

Section 1902(a)(17)(C) would maintain the requirement not to take into account the financial responsibility of any other individual (other than a spouse or parent), with an amendment to clarify that the income and resources of additional individuals (such as siblings in the same filing unit and sponsors of resident aliens) may also be taken into account as needed to comply with the requirement to use the eligibility rules of related cash assistance programs in determining Medicaid eligibility.

Section 1902(a)(17)(D) would maintain the requirement to take into account costs of medical or remedial care, but would eliminate the reference to "costs incurred" in order to allow States to consider also costs for which payment has not yet been made and foreseeable future costs.

Section 1902(a)(17)(E) would explicitly require States to require eligible individuals residing in medical institutions to contribute to the cost of their care income above the amount an institutionalized SSI recipient is permitted to keep, to the extent the Secretary provides in regulations. (This is a clarifying amendment; the rule is necessarily implied to avoid results inconsistent with the intent of the Congress. Institutionalized recipients have been required to participate in the cost of their care since the inception of the program in 1965, but the absence of an explicit statement is a source of recurring confusion.)

Section 1902(a)(17)(F) would permit States to require, as a condition of eligibility of individuals residing in medical institu-

tions, payment by a financially responsible individual (as defined in subparagraph (C)) not in excess of 20 percent of that portion of such individual's annual income that exceeds 200 percent of the Federal poverty line. (This is new authority.)

Subsections (d) and (e) would amend section 1902(f) of the Act (the "section 209(b) eligibility provision") and section 1903(f) (which limits Medicaid eligibility to those whose income and resources do not exceed 133⅓ percent of the cash assistance standard for families with dependent children) to eliminate the restriction of spenddown to incurred medical costs, in order to include also costs for which payment has not yet been made and foreseeable futrue costs.

Pursuant to section 110, this amendment would not be effective with respect to any calendar quarter for which section 101 of the bill is not in effect.

Eligibility of certain individuals who become ineligible for supplemental security income or State supplemental payments

Section 103 would clarify that the disregard of certain income provided by section 503 of P.L. 94-566, for purposes of determining Medicaid eligibility, applies only to those individuals who become ineligible for supplemental security income (SSI) as a direct result of a cost-of-living increase in social security benefits, and who would therefore, without this section, be ineligible for Medicaid as well. It is clear from the legislative history of section 503 (despite the contrary outcome in *Lynch* v. *Rank*) that this provision was never intended to afford relief to individuals who lost SSI eligibility for reasons apart from the cost-of-living increase, but who, if that increase were deducted from their total income, would qualify for SSI.

Pursuant to section 110, this amendment would not be effective with respect to any calendar quarter for which section 101 of the bill is not in effect.

Statewideness requirement retained only for mandatory services to mandatory eligibles

Section 104 would amend the present requirement that the State plan be in effect throughout the State to apply only with respect to mandatory services to those groups the State is required to cover.

Pursuant to section 110, this amendment would not be effective with respect to any calendar quarter for which section 101 of the bill is not in effect.

"Freedom of choice" limited to mandatory services to mandatory eligibles

Section 105 would limit applicability of the requirement that recipients have freedom of choice in selection of a provider from whom to receive covered services to mandatory services for the categorically needy.

Pursuant to section 110, this amendment would not be effective with respect to any calendar quarter for which section 101 of the bill is not in effect.

Amendments concerning copayments

Section 106 would amend provisions concerning copayments by Medicaid recipients. No premiums or like charges could be made for mandatory services for the mandatory groups, and copayments for such services could only be nominal. States would have the option to exempt from copayment requirements services furnished to children, pregnant women, and residents of medical institutions who are required to bear a share of the costs of their care, HMO services, and emergency services. There would be no restrictions on copayments for optional services for any individuals.

Pursuant to section 110, this amendment would not be effective with respect to any calendar quarter for which section 101 of the bill is not in effect.

Elimination of Federal requirements concerning State payment rates

Section 107 would eliminate all statutory requirements with respect to minimum payment rates for Medicaid services, but States would be required to include in their plans a description of the methods used to set payment rates for hospitals, skilled nursing facilities, intermediate care facilities, and hospices.

Pursuant to section 110, this amendment would not be effective with respect to any calendar quarter for which section 101 of the bill is not in effect.

State plan requirement to verify that medical services were furnished as claimed

Section 108 would require the State plan to provide an adequate method for verifying whether services for which payment is claimed under the State plan were actually furnished to covered individuals (this would replace a requirement, intended to achieve the same purpose, that would be eliminated by repeal of enhanced MMIS matching rates).

Pursuant to section 110, this amendment would not be effective with respect to any calendar quarter for which section 101 of the bill is not in effect.

Elimination of penalty for failure to pay premiums for individuals eligible for Medicare part B benefits

Section 109 would eliminate the reduction in Federal reimbursement with respect to expenditures which would not have been incurred by the State if it had exercised its option to pay Medicare part B premiums on behalf of eligible Medicaid recipients.

Pursuant to section 110, this amendment would not be effective with respect to any calendar quarter for which section 101 of the bill is not in effect.

Effective dates

Section 110 would provide that amendments made by section 101 of the bill would be effective upon enactment, and that amendments made by sections 102 through 109 would be effective with respect to calendar quarters beginning on and after the first day of the first fiscal year for which section 101 is in effect.

TITLE II—LIMITS ON MATCHING OF ADMINISTRATIVE COSTS

Elimination of increased matching rates and administrative costs

Section 201 of the draft bill would amend section 1903(a) of the Act to eliminate all special matching rates for administrative costs, other than the 90 percent rate for family planning, and the 100 percent matching rate for activities related to alien immigration status verification (added by section 121 of the Immigration Reform and Control Act of 1986). This section would eliminate the 75 percent matching rate for compensation and training of skilled medical personnel and supporting staff; the 90 percent and 75 percent matching rates for various Medicaid management information systems (MMIS) activities; and the 90 percent and 75 percent matching rates for fraud control units.

Reductions in matching rates for excess administrative costs

Section 202 of the draft bill would further amend section 1903 of the act to reduce the matching rate for excess State administrative costs (including costs relating to family planning services or alien status verification). Federal matching would be reduced to 25 percent for a State's administrative costs that exceeded 135 percent of the national median of such costs; there would be no matching for that portion of a State's administrative costs that exceeded 160 percent of the national median. This amendment would not apply to the territories, whose Federal matching is already capped.

Subsection (a) of this section would amend the authority for Federal matching of State administrative costs at 90 percent for family planning-related costs, 100 percent for alien status verification, and 50 percent for other costs, to provide that the special rules of subsection (x) of section 1903 (added below) apply to so much of a State's administrative costs as result from "adjusted per recipient administrative costs" (a term defined in the new subsection (x)) in excess of 135 percent of the national median of such costs. Further, before applying the terms of subsection (x), a State's administrative costs are reduced by a standard amount referred to as "core administrative costs" (a common amount that each State must incur in administering a Medicaid program).

Subsection (b) would add the new subsection (x) to section 1903 of the Act, as follows:

Subsection (x)(1) states that 25 percent Federal matching will be provided for that portion of a State's "adjusted per recipient administrative costs" that exceed 135 percent but not 160 percent of the national median of such costs, and that no amount will be payable for that portion of the per recipient costs that exceed 160 percent of the national median.

Paragraph (2) defines various key terms used in section 1903:

Subparagraph (A) provides that "per recipient administrative costs" means the ratio of the amount expended by the State to administer its Medicaid plan in a year to the unduplicated annual number of individuals receiving assistance under the plan in the same year.

Subparagraph (B) defines "adjusted per recipient administrative costs" in the case of a particular State as that State's per recipient administrative costs, (i) adjusted by the ratio of the State's annual average wages for public employees to the median of that figure for all States (based on the most recent Bureau of Labor—Statistics data available to the Secretary), and (ii) further adjusted, if the Secretary finds it necessary, to improve the equivalence of that State's costs to those of other States, with respect to specific categories of costs, because of significant changes in circumstances, or required administrative activities, that affected the State more than all States generally, and that were beyond the State's ability to control.

Subparagraph (C) specifies that the national median of adjusted per recipient administrative costs of the States will be the median of those costs for the second fiscal year preceding the fiscal year for which the limitation on matching is being applied, on the basis of claims allowed by the Secretary before the end of the relevant fiscal year (i.e. within the two year period allowed for

filing of claims), with the median then being adjusted by the change in the GNP deflator between the relevant fiscal year and the second preceding fiscal year.

Subparagraph (D) specifies that the amount of a State's adjusted core administrative costs will be (i) $1,000,000 for fiscal year 1988, or (ii) for any subsequent fiscal year, $1,000,000, adjusted by the change in the GNP deflator.

Subparagraph (E) provides that the "change in the GNP deflator," for purposes of adjusting the amount of the core administrative costs for years after 1988, will be the ratio of the GNP deflator for the second quarter of the fiscal year concerned, to the GNP deflator for the second quarter of fiscal year 1988, and for purposes of adjusting the national median of adjusted per recipient administrative costs (which is based on those costs in the second fiscal year preceding the relevant fiscal year), it means the ratio of the GNP deflator for the relevant fiscal year (measured in the same way as for adjusting core administrative costs) to the GNP deflator for the second preceding fiscal year.

Paragraph (3) reflects the parallel limitations on administrative costs that are being proposed as amendments to the AFDC and food stamp programs. Those provisions are essentially the same as this Medicaid proposal, except that, in the AFDC and food stamp programs, the ceilings on 50 percent and 25 percent reimbursement are to be set at 125 percent and 150 percent, respectively, of the national median of adjusted per recipient administrative costs. This difference reflects the greater complexity of Medicaid program administration and the greater potential for variation in the content of State programs.

Subparagraph (A) provides that if a State, in its Medicaid program, contains its administrative costs such that a greater amount could have been claimed for 50 percent, or 25 percent, reimbursement, the Secretary will determine the additional dollar amount for which reimbursement could have been claimed at each of those rates and notify the State.

Subparagraph (B) provides that if a State has been notified, under the parallel provision of title IV-A, that a greater amount could have been claimed for 50 percent or 25 percent matching than was actually claimed, the State may claim a like amount of Medicaid expenditures for matching at the applicable rate under the Medicaid program, in addition to the amount that the ceiling of 135 percent and 160 percent of national median Medicaid administrative costs would have otherwise allowed.

Subparagraph (C) affords the State the same option to use "credits" from efficient administration of its food stamp program to cover expenditures for Medicaid administration beyond the limit for which 50 percent or 25 percent Medicaid matching would otherwise be provided.

Subparagraph (D) directs the Secretary (together with the Secretary of Agriculture, assuming enactment of the parallel amendment to the food stamp program) to prescribe regulations to implement paragraph (3), allowing use of "credits" (i.e. total claims below the applicable ceilings in AFDC or food stamps) to create additional amounts of Medicaid reimbursement above the Medicaid ceilings. However, the regulations must permit the State to determine how it wishes to match up excess Medicaid administrative costs with "credits" from either or both of the other two programs, with the restriction that a "credit" can only be used once.

Subsection (c) of section 202 would amend section 1903(b) of the Act to include a reference to the newly added subsection (x). Section 1903(b) authorizes the process by which the Secretary makes quarterly estimates of the amounts that will be payable to a State under section 1903(a), and makes advance payments to the State, subject to necessary adjustment on account of previously made overpayments or underpayments. The inclusion of the reference to subsection (x) will make clear that the Secretary, in making such an estimate of the amount which will be made available to the State for the coming quarter, must take account of limitations on reimbursement for administrative costs under this new provision.

Subsection (d) would repeal section 1903(b)(3) of the Act (which sets a limit on Federal matching costs of a State fraud control unit).

Subsection (e) would repeal section 1903(r) of the Act (which establishes requirements and penalties relating to operation of State Medicaid management information systems).

Effective dates

Section 203 would provide that the amendments made by section 201 and by subsections (a), (b), (d), and (e) of section 202 would be effective with respect to quarters beginning on or after October 1, 1987. The amendment to section 1903(b) of the Act made by section 202(c) of the bill would be effective on enactment so that it would apply to the estimates made for, but prior to, the first quarter of fiscal year 1988.

TITLE III—OTHER COST SAVING PROPOSALS AND ADMINISTRATIVE IMPROVEMENTS

Amendment concerning third-party payments for medical expenses

Section 301 would repeal provisions recently added by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), P.L. 99-272, that require States to submit to the Secretary a plan for pursuing third party liability (TPL) collections, and that limit the Secretary to enforcement of the State's TPL collection efforts through the Medicaid Management Information Systems (MMIS) sanctions.

Claims payment review

Section 302 would authorize the Secretary to promulgate regulations setting minimum standards for State prepayment and postpayment claims reviews, and would authorize the Secretary to perform such reviews, directly or through contractual or other arrangements, and to reduce the State's Federal matching by costs incurred for such reviews, in any case where the State failed to meet the minimum standard for claims payment reviews under those regulations.

Reimbursement limits on nonemergency physician services furnished in hospital emergency rooms

Section 303 would require States to limit reimbursement to physicians for nonemergency outpatient services provided in hospital emergency rooms to the reimbursement for the same service provided elsewhere. The amendment is designed to discourage physicians from providing in hospital emergency rooms services which could be provided less expensively elsewhere.

Authority to waive requirements with respect to the territories

Section 304 would permit the Secretary to waive or modify any title XIX requirement with respect to any territory participating in the program (other than requirements concerning Federal medical assistance percentage, limits on Federal matching payments, or the limitations on scope of program applying to American Samoa).

Transfer of Medicare part B premiums to supplementary medical insurance trust fund

Section 305 would require the Secretary to transfer quarterly from the Medicaid appropriation account to the Medicare SMI trust fund sums representing the entire amounts due from States for Medicare part B "buy-in" premiums. State grant awards would not include any amount for the Federal share of part B premiums, and would be reduced by the State share of such premiums. (Under current law, States pay the premiums directly to the SMI trust fund, and receive payment for the Federal share in their grant awards.)

Interest payments by States on disputed claims

Section 306 would redefine the disputed claims on which States are required to pay interest to be "amounts claimed" on or after October 1, 1980, rather than "expenditures for services furnished" on or after that date. This amendment is needed because Federal matching payments are based on the date the State expenditure was made, irrespective of the date the service was rendered.

Ineligibility of inmates of correctional institutions

Section 307 would amend the provision precluding medical assistance to inmates of institutions to preclude eligibility of all individuals in correctional institutions, including those in private arrangements under contract with State or local governments.

Authority to require additional information relating to extension of "freedom of choice" waiver

Section 308 would amend the provisions for waiver of the requirement to give recipients "freedom of choice" of provider. Under current law, a request for continuation of the waiver is deemed granted unless the Secretary denies it in writing within 90 days. The amendment would permit the Secretary the alternative of requesting additional information needed to make a determination; the request would then be deemed granted unless denied in writing within 90 days from receipt of the additional information.

Transfer of assets

Section 309 would eliminate the provision permitting States to apply rules less restrictive than SSI rules in limiting Medicaid eligibility of individuals who have transferred assets for less than fair market value. The effect of eliminating this language would be to require States, except as otherwise explicitly provided, to apply the SSI rules to transfer of assets cases. States' authority to apply rules more restrictive than SSI rules in certain cases, and to waive the rules in cases of hardship, would be retained.

Repeal of requirement for coordinated audits

Section 310 would repeal the requirement for coordinated audits of entities providing services on a cost-related reimbursement basis under both Medicare and Medicaid. This requirement is no longer reasonable, in light of amendments to Medicaid permitting State payments on bases other than cost, and amendments to Medicare establishing the prospective payment system.

Eligibility of certain recipients of Veterans' Administration pensions

Section 311 would limit the special provision which permits individuals to decline to accept increased veterans' pension benefits enacted in 1978 in cases where the increased benefits would make them ineligible for certain cash assistance benefits, and therefore for Medicaid, in a State that has only a categorically needy program. The proposed amendment would limit the application of this provision to individuals who have elected to decline the increased pensions, as permitted by this provision, before October 1, 1987.

Technical and clarifying amendments

Section 312(a) would clarify the Secretary's entitlement to obtain payment information upon request from providers.

Subsection (b) would clarify the interaction between the utilization review requirements under Medicare and Medicaid.

Subsection (c) would correct a cross-reference.

Subsection (d) would clarify that the term "intermediate care facility" includes an intermediate care facility for the mentally retarded, and that the term "intermediate care facility services" includes such services in a facility for the mentally retarded.

Subsection (e) would correct terminology concerning the approval of skilled nursing facilities and rural health clinics for participation in Medicare and Medicaid.

Effective date; grace period for state legislative action

Section 313(a) would provide that, except as otherwise explicitly provided, the amendments made by title III of the bill would be effective with respect to calendar quarters beginning on and after October 1, 1987.

Subsection (b) would provide that, where the Secretary determines that State legislation is needed to meet additional requirements imposed by this title, State plans would not be considered out of compliance for failure to meet those requirements until after the close of the next regular session of the legislature meeting after enactment of this bill.

THE SECRETARY OF
HEALTH AND HUMAN SERVICES,
Washington, DC, July 7, 1987

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill, the "Medicaid Reform Amendments of 1987".

Title I of the draft bill would limit total Federal financial participation in State expenditures for medical assistance under title XIX of the Social Security Act; the bill would increase States' flexibility in operation of their programs, in order to enable them to establish their program priorities within the limitations on Federal funding. Title II of the bill would limit Federal matching of State costs of administering the Medicaid program. Title III of the bill would make other amendments designed to control costs and simplify administration of the Medicaid program.

Title I of the draft bill would limit Federal Medicaid payments to States for medical assistance costs, beginning with fiscal year 1988. Payments to States for fiscal year 1988 would be limited to $25,246,451,000; for fiscal year 1989 and succeeding years each State's payment limit would be determined by indexing its allotment for the prior fiscal year by the medical care component of the Consumer Price Index. For FY 1988 only, the Secretary would be authorized to distribute additional funds appropriated, up to a ceiling of $300 million, in grants to States whose Federal matching payments, but for the ceiling, would be more than 8 percent higher, but that did not exceed certain limits on cost increases.

The draft bill would increase States' flexibility with respect to coverage, cost sharing, and provider reimbursement under their Medicaid programs. States would continue to be required to provide the current mandatory services to the current "mandatory categorically needy" groups, but other coverage requirements would be relaxed. Federal requirements for "state-wideness" and "freedom of choice" would be retained only for mandatory services to mandatory groups; States could assess nominal copayments on mandatory services for mandatory groups, and other restrictions on copayments would be eliminated; and all minimum requirements concerning provider reimbursement rates would be repealed.

The draft bill would also make various other amendments to increase State flexibility and to eliminate administrative requirements that would become unnecessary if Federal matching of program costs were subject to ceilings.

The amendments expanding State flexibility are intended to give States sufficient discretion to establish their program priorities within the limitations on Federal financial assistance, and not merely to allow expansion by States of their Medicaid programs. Therefore, these additional State options would only be available for calendar quarters for which the limitations on Federal financial participation were in effect.

Title II of the draft bill would eliminate enhanced matching rates for certain State administrative costs, including the 75 percent rate for compensation and training of skilled medical personnel and supporting staff; the 90 and 75 percent rates for Medicaid management information systems; and the 90 and 75 percent rates for Medicaid fraud control units. Federal matching for these activities would be limited to 50 percent.

Title II of the bill would also reduce the Federal matching rate from 50 to 25 percent for State administrative costs that exceed 135 percent of the national median of such costs, and would eliminate matching for State administrative costs that exceed 160 percent of the national median.

The limitations on Federal funding of medical assistance costs, and on Federal matching of excess administrative costs, would not apply to the territories, whose Federal matching for Medicaid costs is already capped.

Title III of the draft bill would make additional amendments designed to control costs and improve program administration. The bill would limit reimbursement for nonemergency physician services furnished in hospital emergency rooms. It would eliminate the State option to apply rules less restrictive than those in the supplemental security income (SSI) program under title XVI of the Act in determining whether an individual is ineligible for Medicaid because of transfer of assets for less than fair market value. The bill would authorize the Secretary to set minimum standards for State claims payment reviews, and to perform the reviews at State expense where a State failed to meet those standards in its reviews. This title would also make various other administrative improvements.

The provisions of the draft bill are described in detail in the enclosed section-by-section summary.

We estimate that enactment of the draft bill would result in Federal saving of $1,390 million for fiscal year 1988, rising to $6,460 million by fiscal year 1992. A detailed savings table is enclosed.

We urge the Congress to give the draft bill its prompt and favorable consideration.

We are advised by the Office of Management and Budget that there is no objection to the submission of this legislative proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

OTIS R. BOWEN, M.D.,
Secretary.

MEDICAID REFORM AMENDMENTS OF 1987 ESTIMATED FEDERAL SAVINGS

[In millions of dollars]

	Fiscal years—				
	1988	1989	1990	1991	1992
Section 101	1,000	2,544	3,591	4,768	6,152
Section 201	255	265	273	280	286
Section 202	20	21	21	22	22
Section 303 [1]	80				
Section 307 [1]	15				
Section 309 [1]	20				
Total	1,390	2,830	3,885	5,069	6,460

[1] These proposals will produce no additional savings for fiscal years after fiscal year 1988, because of the limitation on funding established by the amendment made by section 101.●

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. GLENN, Mr. SPECTER, Mr. LEVIN, Mr. RIEGLE, Mr. BYRD, Mr. HEFLIN, Mr. SHELBY, Mr. LUGAR, Mr. BUMPERS, Mr. INOUYE, Mr. DURENBERGER, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. BOSCHWITZ, and Mr. SARBANES):

S. 1577. A bill to extend certain protections under title 11 of the United States Code, the Bankruptcy Code; which was ordered placed on the calendar by unanimous consent.

EXTENSION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE

● Mr. METZENBAUM. Mr. President, last year Congress enacted an emergency measure to protect retiree health and life insurance benefits when companies file for bankruptcy. Earlier this year we extended these protections through September 15.

The purpose of this measure has been to afford Congress an opportunity to enact a permanent change in the bankruptcy code. Last Friday the Senate passed such a measure which is now pending in the House.

In order to provide the House an ample opportunity to deal with this complex legislation I am today, along with 16 cosponsors, introducing a 30-day extension of the stop-gap measure.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 100-41 is amended by striking out "September 15, 1987" and inserting in lieu thereof "October 15, 1987".●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator from Florida [Mr. CHILES] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 182

At the request of Mr. RIEGLE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 182, a bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections.

S. 685

At the request of Mr. QUAYLE, the names of the Senator from Illinois [Mr. SIMON], the Senator from Kansas [Mr. DOLE], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 685, a bill to amend the Deficit Reduction Act of 1984 to make permanent the administrative offset debt collection provisions with respect to education loans.

S. 708

At the request of Mr. PROXMIRE, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

S. 715

At the request of Mr. HARKIN, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 715, a bill to prohibit any active duty, commissioned officer of the Armed Forces of the United States from serving as the Assistant to the President for National Security Affairs, and for other purposes.

S. 801

At the request of Mr. JOHNSTON, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 801, a bill to facilitate the national distribution and utilization of coal.

S. 837

At the request of Mr. KENNEDY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 837, a bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

S. 961

At the request of Mr. HEINZ, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 961, a bill to amend title XVIII of the Social Security Act to allow medicare coverage for home health services provided on a daily basis.

S. 1172

At the request of Mr. PRYOR, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1172, a bill to amend the Farm Credit Act of 1971 to provide a secondary market for agricultural mortgages, and for other purposes.

S. 1196

At the request of Mr. HOLLINGS, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1196, a bill to provide for the enhanced understanding and wise use of ocean, coastal, and Great Lakes resources by strengthening the National Sea Grant College and by initiating a Strategic Coastal Research Program, and for other purposes.

S. 1217

At the request of Mr. MURKOWSKI, the names of the Senator from Texas [Mr. GRAMM], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 1217, a bill to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the Coastal Plain of the North Slope of Alaska for oil and gas exploration, development, and production.

S. 1297

At the request of Mr. GRAHAM, the names of the Senator from Georgia [Mr. NUNN] and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 1297, a bill to amend the National Trails System Act to provide for a study of the De Soto Trail, and for other purposes.

S. 1323

At the request of Mr. PROXMIRE, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1323, a bill to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers.

S. 1366

At the request of Mr. KENNEDY, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1366, a bill to revise and extend the programs of assistance under title X of the Public Health Service Act.

S. 1402

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1402, a bill to amend title VIII of the Public Health Service Act to establish programs to reduce the shortage of professional nurses.

S. 1440

At the request of Mr. EVANS, the names of the Senator from California [Mr. CRANSTON] and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 1440, a bill to provide consistency in the treatment of quality control review procedures and standards in the Aid to Families with Dependent Children, Medicaid and Food Stamp Programs; to impose a temporary moratorium for the collection of penalties under such programs, and for other purposes.

S. 1441

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1441, a bill to reduce the incidence of infant mortality.

S. 1490

At the request of Mr. SARBANES, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of S. 1490, a bill to designate certain employees of the Librarian of Congress as police, and for other purposes.

S. 1510

At the request of Mr. KERRY, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1510, a bill to require the Administrator of Veterans' Affairs to arrange for the review by the National Academy of Sciences of scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds and the issuance of a report on the Academy's conclusions as to the weight of the evidence regarding the health effects in humans of exposure to agent orange, and for other purposes.

S. 1557

At the request of Mr. HOLLINGS, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 1557, a bill to require the Secretary of Transportation to promulgate rules regarding certain operating transponders on aircraft, and for other purposes.

SENATE JOINT RESOLUTION 106

At the request of Mr. BINGAMAN, the names of the Senator from Nevada [Mr. REID], the Senator from North Dakota [Mr. BURDICK], the Senator from Washington [Mr. ADAMS], the Senator from Florida [Mr. CHILES], the Senator from Alabama [Mr. HEFLIN], and the Senator from South Carolina [Mr. HOLLINGS] were added

as cosponsors of Senate Joint Resolution 106, joint resolution to recognize the Disabled American Veterans' Vietnam Veterans' National Memorial as a memorial of national significance.

SENATE JOINT RESOLUTION 168

At the request of Mr. MELCHER, the names of the Senator from California [Mr. CRANSTON], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 168, joint resolution designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week."

SENATE JOINT RESOLUTION 173

At the request of Mr. REID, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Florida [Mr. CHILES], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Arizona [Mr. DECONCINI], the Senator from Kansas [Mr. DOLE], the Senator from Utah [Mr. HATCH], the Senator from Indiana [Mr. LUGAR], the Senator from Montana [Mr. MELCHER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Oklahoma [Mr. NICKLES], the Senator from Michigan [Mr. RIEGLE], the Senator from Delaware [Mr. ROTH], the Senator from North Carolina [Mr. SANFORD], the Senator from Maryland [Mr. SARBANES], the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. STENNIS], the Senator from California [Mr. WILSON], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 173, joint resolution to commemorate the 200th anniversary of the signing of the U.S. Constitution.

SENATE JOINT RESOLUTION 175

At the request of Mr. TRIBLE, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Louisiana [Mr. BREAUX], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nevada [Mr. HECHT], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. LUGAR], the Senator from Georgia [Mr. NUNN], the Senator from Wyoming [Mr. WALLOP], the Senator from Virginia [Mr. WARNER], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 175, joint resolution to recognize the efforts of the U.S. Soccer Federation in bringing the world cup to the United States in 1994.

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. LEAHY], was added as a cosponsor of Senate Concurrent Resolution 32, concurrent resolution to express the sense of Congress that volunteer work should be taken into account by employers in the consideration of applicants for employment and that provision should be made for a listing and description of volunteer work on employment application forms.

SENATE RESOLUTION 246

At the request of Mr. MOYNIHAN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 246, resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

SENATE RESOLUTION 262—TO AMEND THE STANDING RULES OF THE SENATE RELATIVE TO THE ENACTMENT OF TAX INCREASE MEASURES

Mr. WALLOP submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 262

Resolved, That rule XVI of the Standing Rules of the Senate is amended—

(1) by adding at the end thereof the following new paragraph:

"9. No bill, joint resolution, report made by a committee of conference, amendment, or other matter providing for a tax increase may be enacted except by the affirmative vote of two-thirds of the Senators present and voting.", and

(2) by adding at the end of the heading thereof a semicolon and the following: "TAX INCREASE MEASURES".

SENATE RESOLUTION 263—TO AMEND THE STANDING RULES OF THE SENATE WITH RESPECT TO THE ENROLLMENT OF CERTAIN APPROPRIATIONS BILLS

Mr. WALLOP submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 263

Rule XVI of the Standing Rules of the Senate, as amended by section 1 of this resolution, is further amended by adding at the end thereof the following new paragraph:

"10. (a)(1) When any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) shall cause the enrolling clerk of the Senate to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

"(2) A bill or joint resolution that is required to be enrolled pursuant to clause (1)—

"(A) shall be enrolled without substantive revision,

"(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this resolution), and

"(C) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pusuant to clause (1) with respect to the same measure.

"(b) A bill or joint resolution enrolled pursuant to clause (1) of subparagraph (a) with respect to an item shall be deemed to be a bill under Clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

"(c) For purposes of this rule, the term "item" means any numbered section and any unnumbered paragraph of—

"(1) any general or special appropriation bill, and

"(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.".

SENATE RESOLUTION 264—TO AMEND SENATE RESOLUTION 400 (94TH CONGRESS) ESTABLISHING A SELECT COMMITTEE ON INTELLIGENCE

Mr. WALLOP submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 264

Resolved, That Section 2 of Senate Resolution 400 (94th Congress) is amended by deleting subsection (b) and redesignating subsection (c) as subsection (b) and redesignating subsection (d) as subsection (c).

SENATE RESOLUTION 265—TO AMEND THE STANDING RULES OF THE SENATE RELATIVE TO CONSIDERATION OF AMENDMENTS TO APPROPRIATIONS MATTERS

Mr. WALLOP submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 265

Resolved, That paragraph 1 of Rule XVI of the Standing Rules of the Senate is amended to read as follows:

1. On a point of order made by any Senator, no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of an authorization for such appropriation previously enacted into law.

SENATE RESOLUTION 266—RELATIVE TO FUTURE UNITED STATES ASSISTANCE TO PAKISTAN

Mr. GLENN (for himself, Mr. BRADLEY, Mr. CRANSTON, Mr. PELL, Mr. HELMS, Mr. QUAYLE, Mr. MOYNIHAN, Mr. KENNEDY, Mr. HUMPHREY, Mr. KERRY, Mr. HATFIELD, Mr. BOSCHWITZ, Mr. SIMON, Mr. ADAMS, Mr. MITCHELL,

Mr. SARBANES, Mr. SANFORD, Mr. PROXMIRE, and Mr. GRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 266

Whereas production of weapon-grade nuclear materials in Pakistan and India constitutes a threat to regional and international security; and

Whereas the United States desires to maintain a long-term security partnership with Pakistan; and

Whereas the greatest threat to this partnership arises from activities in Pakistan's nuclear program that are viewed as being inconsistent with a purely peaceful program; and

Whereas a Pakistani choice to eliminate this threat would serve our mutual interests in promoting stability in South Asia and assisting the Afghan people; and

Whereas the Government of Pakistan has repeatedly stated that it is not producing weapon-grade nuclear materials, and that it would respect U.S. nuclear export control laws; and

Whereas information exists that Pakistan is producing weapon-grade nuclear material; and

Whereas in the absence of any other action by the Congress or the President, United States laws require a cessation of assistance in the event of violations of the nuclear export control laws of the United States; and

Whereas further U.S. assistance to Pakistan or India in the face of continued violations would undermine U.S. efforts to contain the spread of nuclear weapons, including U.S. commitments to the 132 non-weapon-state parties to the Nuclear Non-Proliferation Treaty: Now, therefore, be it

Resolved, That:

(1) The Senate strongly supports the President in his forthcoming efforts to gain Pakistan's compliance with its past commitments, including commitments of record, not to produce weapon-grade nuclear materials.

(2) The Senate strongly urges the President to inform Pakistan that Pakistan's verifiable compliance with these past commitments is vital to any further United States military assistance.

(3) The Senate urges the President to pursue vigorously an agreement by India and Pakistan to provide for simultaneous accession by India and Pakistan to the Nuclear Non-Proliferation Treaty, simultaneous acceptance by both countries of complete International Atomic Energy Agency safeguards for all nuclear installations, mutual inspection of one another's nuclear installations, renunciation of nuclear weapons through a joint declaration of the two countries, and the establishment of a nuclear weapons free zone in the Sub-continent.

AMENDMENTS SUBMITTED

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

JOHNSTON AMENDMENT NO. 647

Mr. JOHNSTON proposed an amendment to the joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt; as follows:

On page 1, line 3, strike all after the word "That" and insert in lieu thereof the following: "during the period beginning on the date of the enactment of this Act and ending on May 1, 1989, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be equal to $2,800,000,000,000."

MOYNIHAN (AND RIEGLE) AMENDMENT NO. 648

Mr. MOYNIHAN (for himself and Mr. RIEGLE) proposed an amendment to the joint resolution (H.J. Res. 324), supra; as follows:

At the appropriate place, add the following new title:

TITLE ___—SOCIAL SECURITY TRUST FUNDS

SEC. ___. SHORT TITLE.

This title may be cited as the "Social Security Trust Funds Management Act of 1987.

SEC. ___. INVESTMENT AND RESTORATION OF TRUST FUNDS.

(a) Subsection (d) of section 201 of the Social Security Act (42 U.S.C. 401(d)) is amended—

(1) by striking out "(1) on original issue" and inserting in lieu thereof "(A) on original issue",

(2) by striking out "(2) by purchase" and inserting in lieu thereof "(B) by purchase";

(3) by striking out "It shall be" and inserting in lieu thereof "(1) It shall be", and

(4) by adding at the end thereof the following new paragraphs:

"(2) If—

"(A) any amounts in the Trust Funds have not been invested solely by reason of the public debt limit, and

"(B) the taxes described in clause (3) or (4) of subsection (a) with respect to which such amounts were appropriated to the Trust Funds have actually been received into the general fund of the Treasury of the United States,

such amounts shall be invested by the Managing Trustee as soon as such investments can be made without exceeding the public debt limit and without jeopardizing the timely payment of benefits under this title or under any other provision of law directly related to the programs established by this title.

"(3)(A) Upon expiration of any debt limit impact period, the Managing Trustee shall immediately—

"(i) reissue to each of the Trust Funds obligations under chapter 31 of title 31, United States Code, that are identical, with respect to interest rate and maturity, to public debt obligations held by such Trust Fund that—

"(I) were redeemed during the debt limit impact period, and

"(II) as determined by the Managing Trustee on the basis of standard investment procedures for such Trust Fund in effect on the day before the date on which the debt limit impact period began would not have been redeemed if the debt limit impact period had not occurred, and

"(ii) issue to each of the Trust Funds obligations under chapter 31 of title 31, United States Code, that are identical, with respect to interest rate and maturity, to public debt obligations which—

"(I) were not issued during the debt limit impact period, and

"(II) as determined by the Managing Trustee on the basis of such standard investment procedures, would have been issued if the debt limit impact period had not occurred.

"(B) Obligations issued or reissued under subparagraph (A) shall be substituted for obligations that are held by the Trust Fund, and for amounts in the Trust Fund that have not been invested, on the date on which the debt limit impact period ends in a manner that will ensure that, after such substitution, the holdings of the Trust Fund will replicate to the maximum extent practicable the obligations that would be held by such Trust Fund if the debt limit impact period had not occurred.

"(C) In determining, for purposes of this paragraph, the obligations that would be held by a Trust Fund if the debt limit impact period had not occurred, any amounts in the Trust Fund which have not been invested, and any amounts required to be invested under paragraph (2), shall be treated as amounts which were required to be invested upon transfer to the Trust Fund.

"(4) The Managing Trustee shall pay, on the first normal interest payment date that occurs on or after the date on which any debt limit impact period ends, to each of the Trust Funds, from amounts in the general fund of the Treasury of the United States not otherwise appropriated, an amount determined by the Managing Trustee to be equal to the excess of—

"(A) the net amount of interest that would have been earned by such Trust Fund during such debt limit impact period if—

"(i) amounts in such Trust Fund that were not invested during such debt limit impact period solely by reason of the public debt limit had been invested, and

"(ii) redemptions and disinvestments with respect to such Trust Fund which occurred during such debt limit impact period solely by reason of the public debt limit had not occurred, over

"(B) the sum of—

"(i) the net amount of interest actually earned by such Trust Fund during such debt limit impact period, plus

"(ii) the total amount of the principal of all obligations issued or reissued under paragraph (3)(A) at the end of such debt limit impact period that is attributable to interest that would have been earned by such Trust Fund during such debt limit impact period but for the public debt limit.

"(5) For purposes of this section—

"(A) The term 'public debt limit' means the limitation imposed by subsection (b) of section 3101 of title 31, United States Code.

"(B) The term 'debt limit impact period' means any period for which the Secretary of the Treasury determines that the issuance of obligations of the United States sufficient to orderly conduct the financial operations of the United States may not be made without exceeding the public debt limit.".

(b) Subsection (a) of section 201 of the Social Security Act is amended by adding at the end thereof the following new sentence: "All amounts so transferred shall be immediately available exclusively for the purpose for which amounts in the Trust Fund are specifically made available under this title or under any other provisions of law directly related to the programs established by this title.".

SEC. ___. REPEAL OF NORMALIZED TAX TRANSFER.

(a) Subsection (a) of section 201 of the Social Security Act is amended by striking out the matter following clause (4) and in-

serting in lieu thereof the following: "The amounts appropriated by clauses (3) and (4) shall be transferred from the general fund of the Treasury of the United States to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) shall be transferred from the general fund of the Treasury to the Federal Disability Insurance Trust Fund, upon receipt by the general fund of taxes specified in clauses (3) and (4) of this subsection (as estimated by the Secretary). Proper adjustments shall be made in amounts subsequently transferred to the extent amounts previously transferred were in excess of, or were less than, the taxes specified in such clauses (3) and (4). All amounts so transferred shall be immediately available exclusively for the purpose for which amounts in the Trust Fund are specifically made available under this title or under other provisions of law directly related to the programs established by this title.".

(b) The amendment made by subsection (a) shall take effect on July 1, 1990.

SEC. ___. FAITHFUL EXECUTION OF DUTIES BY MEMBERS OF BOARD OF TRUSTEES OF TRUST FUNDS.

Section 201(c) of the Social Security Act is amended by striking the last sentence and inserting the following: "A person serving on the Board of Trustees (including the Managing Trustee) shall not be considered to be a fiduciary, but each such person shall faithfully execute the duties imposed on such person by this section. A person serving on the Board of Trustees (including the Managing Trustee) shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.".

SEC. ___. REPORTS REGARDING THE OPERATION AND STATUS OF THE TRUST FUNDS.

Subsection (c) of section 201 of the Social Security Act is amended—

(1) by striking "once" in the fourth sentence and inserting "twice",

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(3) by redesignating paragraphs (3), (4), and (5) as subparagraphs (D), (E), and (F), respectively,

(4) by inserting after subparagraph (B) (as redesignated by paragraph (2) of this section) the following:

"(C) Report to the Congress as soon as possible, but not later than the date that is 30 days after the first normal interest payment date occurring on or after the date on which any debt limit impact period for which the Managing Trustee is required to take action under paragraph (3) or (4) of subsection (d) ends, on—

"(i) the operation and status of the Trust Funds during such debt limit impact period, and

"(ii) the actions taken under paragraphs (3) and (4) of subsection (d) with respect to such debt limit impact period;",

(5) by striking out "in paragraph (2) above" and inserting in lieu thereof "in subparagraph (B) above",

(6) by inserting "(1)" after "(c)", and

(7) by adding at the end thereof the following:

"(2) The Managing Trustee shall report monthly to the Board of Trustees concerning the operation and status of the Trust Funds and shall report to Congress and to the Board of Trustees not less than 15 days prior to the date on which by reason of the public debt limit, the Managing Trustee expects to be unable to fully comply with the provisions of subsection (a) or (d)(1), and shall include in such report an estimate of the expected consequences to the Trust Funds of such inability.".

SEC. ___. ELIMINATION OF UNDUE DISCRETION IN THE INVESTMENT OF TRUST FUNDS.

(a) Section 201(d) of the Social Security Act is amended, in the first sentence—

(1) by inserting "immediately" after "to invest"; and

(2) by striking ", in his judgment,".

(b)(1) Paragraph (2) of section 201(d) of the Social Security Act, as added by this title, is amended to read as follows:

"(2) If any amount in either of the Trust Funds is not invested solely by reason of the public debt limit, such amount shall be invested as soon as such investment can be made without exceeding the public debt limit and without jeopardizing the timely payment of benefits under this title or under any other provision of law directly related to the programs established by this title."

(2) The amendment made by paragraph (1) shall take effect on July 1, 1990.

SEC. ___. SALES AND REDEMPTIONS BY TRUST FUNDS.

Section 201(e) of the Social Security Act is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2)(A) The Managing Trustee may effect any such sale or redemption with respect to either Trust Fund only for the purpose of enabling such Trust Fund to make payments authorized by this title or under any other provisions of law directly related to the programs established by this title. If either of the Trust Funds holds any amounts which are not invested by reason of the public debt limit, the Managing Trustee is nevertheless directed to make such sales and redemptions if, and only to the extent, necessary to assure timely payment of benefits and other payments authorized by this title or by any other provisions of law directly related to the programs established by this title, but the principal amount of obligations sold or redeemed pursuant to this sentence shall not exceed the principal amount of obligations that would have been sold or redeemed under normal operating procedures in order to make such payments.".

SEC. ___. EFFECTIVE DATE.

Except as otherwise provided by this title, the amendments made by this title shall take effect on the date of enactment of this Act.

JOHNSTON (AND OTHERS) AMENDMENT NO. 649

Mr. JOHNSTON (for himself, Mr. CONRAD, Mr. WIRTH, Mr. EXON, and Mr. KERRY) proposed an amendment, which was subsequently modified, to amendment No. 645 proposed by Mr. GRAMM (and others) to the joint resolution (H.R. Res. 324), supra; as follows:

On page 59 strike lines 1 through 5 and insert the following:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1987, the lower of $140,000,000,000, or $36 billion less than the baseline estimate of the deficit in a manner to be determined by the conferees, and

"(B) with respect to the fiscal year beginning October 1, 1988, $120,000,000,000;"

At the appropriate place, insert and section (d)(1) of the Balanced Budget Act of 1985 is amended by striking out "$10,000,000,000" each place it appears and inserting in lieu thereof "$5,000,000,000".

(2) The amendment made by paragraph (1) shall be in effect only with respect to fiscal year 1988.

EVANS (AND OTHERS) AMENDMENT NO. 650

Mr. EVANS (for himself, Mr. HUMPHREY, Mr. EXON, Mr. BOREN, Mr. GRAMM, Mr. DOMENICI, Mr. PROXMIRE, Mr. NICKLES, Mr. HECHT, Mr. MCCAIN, Mr. ROTH, Mr. GARN, Mr. MURKOWSKI, Mr. BOSCHWITZ, Mr. TRIBLE, Mr. SYMMS, Mr. WARNER, Mr. KASTEN, Mr. D'AMATO, Mr. BOND, and Mr. KARNES) proposed an amendment to the joint resolution (H.J. Res. 324), supra; as follows:

At the appropriate place, add the following new title:

TITLE —TREATMENT OF CONTINUING RESOLUTIONS

SEC. . ENROLLMENT OF CERTAIN JOINT RESOLUTIONS.

(a) IN GENERAL.—

(1) Notwithstanding any other provision of law, when any joint resolution making continuing appropriations is agreed to by both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each title of such joint resolution as a separate joint resolution.

(2) A joint resolution that is required to be enrolled pursuant to paragraph (1)—

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure of which it was a title prior to such enrollment, together with such other designation as may be necessary to distinguish such joint resolution from other joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) PROCEDURES.—A joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to a title shall be deemed to be a bill under Clauses 2 and 3 of States and shall be signed by the presiding officers of both Houses of the Congress and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) DEFINITION.—For purposes of this section, the term "title" means any division of a joint resolution making continuing appropriations that is designated as a title.

(d) APPLICATION.—The provisions of this section shall apply to joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this section.

SEC. —. POINT OF ORDER.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Standing Rules

of the Senate, or the Rules of the House of Representatives—

(1) it shall not be in order to consider any joint resolution making continuing appropriations for a fiscal year unless each title of the joint resolution corresponds to a regular appropriations bill,

(2) any general provisions of the joint resolution are contained in the appropriate title or titles of the joint resolution (rather than in a separate title).

"(b) For purposes of this section, the term 'regular appropriation bill' means any regular appropriation bill (within the meaning given to such term in section 307 of the Congressional Budget Act of 1974 (2 U.S.C. 638)) making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

"(1) Agriculture, rural development, and related agencies programs.

"(2) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

"(3) The Department of Defense.

"(4) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

"(5) The Departments of Labor, Health and Human Services, and Education, and related agencies.

"(6) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

"(7) Energy and water development.

"(8) Foreign assistance and related programs.

"(9) The Department of the Interior and related agencies.

"(10) Military construction.

"(11) The Department of Transportation and related agencies.

"(12) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

"(13) The legislative branch.".

CONRAD (AND BOSCHWITZ) AMENDMENT NO. 651

Mr. CONRAD (for himself and Mr. BOSCHWITZ) proposed an amendment to the joint resolution (H.J. Res. 324), supra; as follows:

At the end of the joint resolution, add the following:

TITLE —2 PERCENT REDUCTION OF SPENDING FOR FISCAL YEAR 1988

SEC. 01. 2 PERCENT REDUCTION OF APPROPRIATE LEVELS.

Pursuant to section 304 of the Congressional Budget and Impoundment Act of 1974, section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, 100th Congress, 1st Session) is amended by adding at the end thereof the following new subsection:

"(t)(1) Notwithstanding any other provision of law but subject to the provisions of paragraphs (2), (3), and (4)—

"(A) for purposes of determining, in accordance with section 311(a) of the Congressional Budget Act of 1974, whether the maximum deficit amount for a fiscal year has been exceeded;

"(B) for purposes of other points of order under section 311 of the Congressional Budget and Impoundment Control Act of 1974;

"(C) for purposes of reconciliation under section 310 of the Congressional Budget and Impoundment Control Act of 1974; or

"(D) for purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974.

each appropriate level of total new budget authority for each major functional category and aggregate set forth for fiscal year 1988 in the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93, 100th Congress, 1st Session) shall be deemed to be reduced by 2 percent, and outlay levels shall be deemed to be reduced by appropriate amounts corresponding to a 2 percent cut in budget authority.

"(2) The reduction imposed by paragraph (1) and paragraph (3) shall not apply to the major functional categories for Social Security (650) and that portion of budget authority and outlays which are under any functional category and which are attributable to the enforcement activities of the Internal Revenue Service, and shall apply only to that portion Medicare (570) attributable to general revenues.

"(3) In addition to other changes specified in this subsection, the committees of the House of Representatives and the Senate that have jurisdiction over budget authority and outlays (other than budget authority and outlays within functional categories for Social Security (650) or under any function categories which are attributable to enforcement activities or the Internal Revenue Service) shall report changes in laws within their jurisdiction that provide budget authority and outlays (other than budget authority and outlays within functional category for Social Security (650) and the functional categories which are attributable to enforcement activities or the Internal Revenue Service) sufficient to reduce budget authority or, where applicable, outlays (other than budget authority and outlays within functional category for Social Security (650) and the functional categories which are attributable to enforcement activities or the Internal Revenue Service) by two percent.

"(4) The Chairmen of the Committees on the Budget of the House of Representatives and the Senate shall file with their respective Houses appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in a concurrent resolution on the budget within the meaning of title III of such Act, and the appropriate committees of such Houses shall report revised allocations, pursuant to section 302(b) of such Act for fiscal year 1988 to carry out this subsection.".

HUMPHREY (AND OTHERS) AMENDMENT NO. 652

Mr. HUMPHREY (for himself, Mr. BURDICK, Mr. HELMS, Mr. PROXMIRE, Mr. DECONCINI, Mr. MCCAIN, and Mr. ROTH) proposed an amendment to the joint resolution (H.J. Res. 324), supra; as follows:

At the appropriate place, add the following new section:

SEC. . (a) The rates of pay for all offices and positions which were increased pursuant to the recommendations of the President relating to rates of pay for offices and positions within the purview of section 225(f) of the Federal Salary Act of 1967, as included (pursuant to section 225(h) of such Act) in the budget transmitted to Congress for the fiscal year ending on September 30, 1988, are reduced to the rate of pay for each such office and position which was in effect before such recommendations became effective.

(b) The provisions of subsection (a) shall become effective on the first day of the first applicable pay period which begins on or after the date of enactment of this Act.

(c) The provisions of subsection (a) shall not apply to any judge, justice, or magistrate serving in the Judiciary Branch of the Federal Government.

GRASSLEY (AND OTHERS) AMENDMENT NO. 653

Mr. GRASSLEY (for himself, Mr. HUMPHREY, Mr. BURDICK, Mr. DECONCINI, Mr. PROXMIRE, Mr. MCCAIN, Mr. HELMS, Mr. KARNES, Mr. THURMOND, Mr. NICKLES, Mr. EXON, Mr. DOMENICI, Mr. ROTH, Mr. HECHT, Mr. BOND, Mr. REID, and Mr. WILSON) proposed an amendment to the joint resolution (H.J. Res. 324), supra; as follows:

At the end of the bill, add the following new section:

SEC. . Paragraph (1) of section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(1) Each recommendation of the President which—

"(A) is transmitted to the Congress pursuant to subsection (h) of this section; and

"(B) is approved by a joint resolution agreed to by the Congress, shall be effective as provided in paragraph (2) of this subsection.".

INTERLOCKING DIRECTORATES AND OFFICERS

METZENBAUM AMENDMENT NO. 654

Mr. BYRD (for Mr. METZENBAUM) proposed an amendment to the bill (S. 1068) to amend the Clayton Act regarding interlocking directorates and officers; as follows:

At the end of the bill, insert the following new sections:

SEC. . Section 7A of the Clayton Act is amended by adding at the end thereof the following new subsection:

"(k) For purposes of this section, the annual net sales and total assets of a person shall include, in the case of a partnership, the annual net sales or total assets of any general partner and any partner having the right to 50 per centum or more of the profits of the partnership, or having the right in the event of dissolution to 50 per centum or more of the assets of the partnership.".

SEC. . This Act and the amendments made by this Act shall become effective sixty days after the date of enactment of this Act.

SECTION 7A(a) of the Clayton Act is amended—

(1) in paragraph (2), by striking out "$10,000,000" each place it appears in subparagraphs (A), (B), and (C) and inserting in lieu thereof "$15,000,000"; and

(2) in paragraph (3)(B), by striking out "$15,000,000" and inserting in lieu thereof "$20,000,000".

SEC. 2. (a) Section 7A(b)(1)(B) of the Clayton Act is amended—

(1) by substituting "twentieth" for "fifteenth"; and

(2) by striking out "or (g)(2)" and inserting in lieu thereof the following ", (g)(2), or (g)(3)".

(b) Section 7A(e) of the Clayton Act is amended—

(1) by substituting "20-day" for "15-day" each place it appears;

(2) in paragraph (2) by striking out "(or in the case of a cash tender offer, 10 days)"; and

(3) by striking out the word "only" from the last sentence of paragraph (2) and inserting at the end thereof the following: "or (g)(3)".

(c) Section 7A(g) of the Clayton Act is amended by adding the following at the end thereof: "(3) The court may extend the additional period for up to 25 days if, due to the complexity or scope of the information or documentary material to be evaluated, the Federal Trade Commission or the Assistant Attorney General reasonably requires such additional time to determine whether the proposed acquisition may, if consummated, violate the antitrust laws."

SEC. 3. This Act and the amendments made by this Act shall become effective one hundred twenty days after the date of enactment of this Act.

DEPARTMENT OF JUSTICE AUTHORIZATION ACT

BIDEN (AND THURMOND) AMENDMENT NO. 655

Mr. BYRD (for Mr. BIDEN, for himself and Mr. THURMOND) proposed an amendment to the bill (S. 938) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal years 1988 and 1989, and for other purposes; as follows:

On page 3, line 10 strike "until September 30, 1989" and insert "for two fiscal years".

On page 4, line 3 strike "1988" and insert "1989".

On page 5, line 5 strike "1988" and insert "1989".

On page 5, line 19 after "For the Assets Forfeiture Fund:" and insert "in each fiscal year".

On page 5, line 22 and line 23 strike "not to exceed a total of $50,000,000 shall be available to pay for those expense" and insert "the Attorney General shall provide a special report to the Judiciary Committees of both Houses of Congress regarding the expenditures of the Fund if expenditures exceed a total of $50,00,000 for those expenses".

On page 7, line 11 after "appropriation" insert "in each fiscal year".

On page 9, line 16 after "$140,270,000" insert "in each fiscal year".

On page 11, line between lines 17 and 18, Insert the following new section:

SEC. 104. Notwithstanding the provisions of Public Law 99-591 making continuing appropriations for the fiscal year 1987, the amount made available in the Department of Justice Appropriations Act for "Salaries and expenses, Community Relations Service" (100 Stat. 3341-47) for grants, contracts, and reimbursable agreements and other expenses necessary under section 501(c) of the Refuge Education Assistance Act of 1980 is changed from $23,266,000 to $23,026,000.

On page 18, strike lines 20 and 21 and insert the following:

"(2) necessary expenses in attending to the safety of Judicial proceedings and the execution of court orders;".

On page 26, lines 13 and 14, strike "publish in the Federal Register for notice and comment" and insert "issue". On page 26, line 21 after "activities." strike the remainder of the section (through page 27, line 3) and insert the following paragraph:

"Any proposed guidelines and any changes thereto shall be made available to Congress at least thirty days prior to final adoption. In addition, following enactment of this statute, the Attorney General shall report to Congress, at intervals of one hundred and twenty days, regarding the Department's progress in drafting and issuing comprehensive guidelines.

On page 27, lines 13 and 14, strike "conduct" and insert "approval".

On page 28, between lines 11 and 12, insert the following new section:

SEC. 206. Section 567 of Title 28, United States Code, is hereby repealed.

On page 29, line 23, strike "Sec. 305" and insert "Sec. 303.".

On page 32, line 9, strike "Section 263" and insert "Section 263a".

On page 35, lines 3 and 4 strike "semiannually" and insert "annually".

On page 36, line 2 insert the following: "; provided that the Attorney General report annually to Congress regarding the number of private, for profit, contracts entered into for full detention services; such reports shall provide the name of the contractor, the location of the contractor's facility, the number of prisoners at each contract facility and their security level(s), and the cost and duration of each such contract.".

On page 36, line 22, after "unless the" insert "Judiciary and".

On page 37, line 13, after "unless the" insert "Judiciary and".

On page 41, between lines 3 and 4, insert the following:

"SEC. 504. The table of sections for Chapter 37 of Title 28, United States Code, is amended by deleting at the reference to section 567 the words "Expenses of marshals" and substituting in lieu thereof the word "Repealed"."

On page 41, line 4, strike "SEC. 504." and insert "Sec. 505.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Friday, July 31, 1987, for an open meeting to consider legislation relating to various veterans' benefits and programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 31, 1987, to hold hearings on S. 889, the Satellite Television Fair Marketing Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 31, 1987, to hold a hearing on annex V, of the Maritime Pollution Convention (Treaty Doc. 100-3).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, July 31, 1987, to resume hearings on S. 508, the Whistleblowers Protection Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MILITARY MEDICAL MALPRACTICE

● Mr. SASSER. Mr. President, several years ago, I learned about two tragic cases of medical malpractice involving active duty military personnel from my State. While investigating these cases, I discovered serious flaws in the military medical system.

I found that the Feres doctrine—a 1950 Supreme Court decision—bars active duty military personnel from filing medical malpractice suits against the Government. In other words, a military person in peacetime can be subject to the most negligent military malpractice, but he or she cannot seek redress in the courts of this land. This struck me as grossly unfair. Frankly, it relegates our military personnel to second-class citizenship.

To remedy this inequity, I introduced legislation in the 99th Congress and again in the 100th Congress which gives active duty personnel the right to file medical malpractice suits against the government in peacetime. I hope Congress will act on my legislation this year.

This legislation will give our service men and women the same right as all other citizens of this land to their day in court. However, it does not address the much deeper problem at stake here—that is, the issue of substandard care in military medical facilities.

When I began my investigation into the military health care system 3 years ago, my goal was to improve the quality of care in the military system to a level equal to that found in the civilian sector. That is why I requested the General Accounting Office to identify patterns of problems in the military medical system and to make recommendations for correcting these problems.

Last month, the GAO published the first part of its findings. That report makes specific recommendations on how the Department of Defense can better use malpractice data to improve the quality of its medical care system.

First, GAO recommends strongly that DOD develop a centralized medical malpractice information system. Such a system—the GAO report concludes—would provide consistent data on actual claims and potential claims and identify individual providers responsible for malpractice. A central tracking system is critical in the military, because military physicians are transferred periodically from one hospital to another. By tracking individual physicians who are involved in malpractice, DOD can better identify those responsible for substandard care.

The GAO report also recommends that information about all claims or potential claims—even those involving active duty personnel—be included in the centralized system. This is an important point, because at present there is no assurance that malpractice incidents involving active duty service members will even be investigated or reviewed by the military claims services.

Army claims service officials have told GAO that their responsibility is to investigate claims for settlement purposes. Since, under the Feres doctrine, active duty personnel are not compensated for malpractice, their claims are typically not investigated. In essence, the Army tells its active duty personnel that since we do not have to compensate you for medical malpractice we are not interested in investigating why you suffered from negligent care. It is incomprehensible that the Army could be so disinterested in these often tragic cases of substandard care.

The GAO report sets out a clear path of corrective action for DOD officials. Yet, reports I have received suggest that DOD may continue to balk at these suggestions. This would be a tragic mistake. The GAO recommendations give the Department of Defense an excellent opportunity to improve its medical care system. I have written Secretary Weinberger urging DOD to make use of this opportunity and to implement the GAO recommendations as soon as possible.

DOD has made good progress in the fight to upgrade military medicine, but there is still plenty of room for improvement. I firmly believe the GAO recommendations will go a long way toward improving the quality of care in the military medical system.●

LESSON FROM THE IRAN-CONTRA HEARINGS

● Mr. HELMS. Mr. President, as the hearings of the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition draw to a close, I suspect all of us agree that there is a lesson for everyone involved—the administration, the Congress, and the American people. While we may not agree on what that lesson should be, it will be helpful to examine the hearings from every perspective.

One of my constituents, Mrs. Andrew Jackson Watkins, of Henderson, NC, sent me an excellent article titled "Will We Profit From Colonel North's Example?" The article is written by Dr. Walter E. Williams, a very fine economist and a good friend of mine. Dr. Williams makes a point with which I fully agree: "U.S. foreign policy cannot be run by 535 Congressmen * * * it's best left to the executive branch of Government."

Mr. President, I ask that a copy of Dr. Williams' article be printed in the RECORD.

I encourage my colleagues to heed Dr. Williams' wise words, and I thank Mrs. Watkins for bringing it to my attention.

The article follows:

[From the Durham Morning Herald, July 18, 1987]

WILL WE PROFIT FROM COLONEL NORTH'S EXAMPLE?

(By Walter E. Williams)

Aside from the Iran-Contra affair being juicy gossip for an otherwise boring summer, it's a sad commentary on our foreign policy. It demonstrates that U.S. foreign policy cannot be run by 535 congressmen; for better or worse; it's best left to the executive branch of government.

During President Reagan's 1984 campaign, there was no doubt in anyone's mind that he was for aid to the contras, who are fighting Nicaragua's Soviet-backed Sandinista government. On that platform, Reagan was returned to the White House in a 49-states-to-1 sweep. Suggesting that: To condemn aid to the contras as a betrayal of national will is ludicrous. In order to carry out this policy, upon which Reagan was returned to office, the administration had to use proceeds from the sale of arms to one enemy to help fight another. That's the irony.

The real tragedy of the Iran-contra intrigue is that the mightiest nation on earth is forced to conduct sleight-of-hand foreign policy in an environment where Congress can produce more obstacles than our country's enemies can. But given congressional constraints, such as the Boland Amendment, Reagan administration people had to use sleight-of-hand and lie to Congress.

Congressmen have a way of bending the truth, too. But worse, some can't be trusted with state secrets. Some have been known to release secret documents to the benefit of our enemies—acts that used to be considered treason. So Col. Oliver North's concern led him to shred documents before they got into the hands of Congress was not entirely without merit.

The Soviet/Cuban influence in Nicaragua is a threat to our national interests. Therefore, "gunboat diplomacy" is a more appropriate U.S. policy. We should send our armed forces in to snuff out the Sandinistas and establish a naval military blockade. The fact that Mikhail Gorbachev has shipped $2 billion worth of helicopter gunships, rocket launchers, tanks, and small arms into Nicaragua makes the Soviet designs in the area clear. Or does Congress think that this is simply another Soviet goodwill gesture to us and to our Latin American allies?

Had today's Congress been around earlier in our history, we might now be a conquered nation.

Today's Congress would have withheld funding for World War II pending hearings to determine whether President Roosevelt had (as has been charged) deliberately stationed our fleet in Pearl Harbor in order to lure us into the war. After all, FDR had promised in his election campaign to keep us out of war.

And North Korea would have overrun South Korea had President Truman's Congress had the power to interfere with foreign policy as does today's. Even during Truman's presidency Congress tried to meddle; but Truman had guts. In effect, he told Congress, "I sent the boys to Korea; you'd better send them some ammunition." As a result, South Korea wasn't overrun and has emerged as one of the economic miracles of the Far East, while North Korea languishes in poverty under communist rule.

With today's Congress, President Kennedy might not have been able to confront Krushchev in 1962. Cuba would now be Russia's premier forward missile base with short- and intermediate-range warheads aimed at our major cities.

Col. North, a patriot, saw the communist threat and congressional connivance and tried to be more than he possibly could be. The fact that he carried it off, as much as he could, gave us some breathing room to collect our senses. But will we?●

NOMINEES TO THE FEDERAL COURTS

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. LEAHY. Mr. President, four nominations to the Federal courts have been approved by the Judiciary Committee and are now on the Executive Calendar. These four nominees were examined at a hearing on July 21, 1987, at which I presided. Based on the investigation conducted by committee staff, and on the record made at the hearing, these four nominees appear qualified for the positions to which they have been nominated. For the benefit of Senators who will soon vote on whether to confirm these nominations, I offer the following

brief summaries of the nominees' qualifications, and of the testimony elicited at the hearing and in followup questions.

As an introductory matter, because the pace of judicial nominations processing by the Judiciary Committee has been the subject of some discussion recently, I would like to call the Senate's attention to a chart setting forth the chronology for the four nominations that are before the Senate today. This chart indicates that these nominees have been selected to fill vacancies which have existed for periods ranging from 7 to 15 months. However, the President did not nominate anyone to fill any of these vacancies until 5 weeks ago, in two cases, or 4 weeks ago, in the other two cases. Once the Senate received these nominations, the Judiciary Committee acted on them very promptly. Hearings were held within 19 days, in two cases, or 25 days, in the other two cases, after the nominations were received. Nine days after the hearing, the Judiciary Committee went to some lengths to schedule a special meeting on Thursday afternoon for the sole purpose of approving nominations, including these four judicial nominations. Looking at the total period between the date of each vacancy and the date of approval of each nomination by the Judiciary Committee, the vast majority of the vacancy period—in one instance, about 93 percent of that period—is attributable to one actor in the nominations process: the executive branch. The other actor—the Senate—is responsible for only a small portion of the vacancy period in each case.

One Assistant Attorney General, whose job description seems to have very little to do with the selection of Federal judges, felt moved earlier this month to take to the pages of the Washington Times in order to accuse the Judiciary Committee of conducting "a concerted effort, a calculated game plan * * * designed to slow down [judicial nominations] in every way they can." I hope that that Assistant Attorney General and his colleagues at the Justice Department will take a moment to examine this chart. Perhaps they will see that when the President sends to the Senate highly qualified judicial nominees, the Senate moves promptly to confirm them. When the President sends to the Senate nominees whose strong qualifications are not so obvious, it may take longer for the Senate to carry out its coequal constitutional role in the process of appointing Federal judges.

Mr. President, I include the chart I have referred to in the RECORD at this point:

CHRONOLOGY OF NOMINATIONS PROCESSING NOMINATIONS APPROVED BY JUDICIARY COMMITTEE, JULY 30, 1987

Nominee and court	Date of vacancy	Date of nomination	Date of hearing
Scirica: 3d Cir	Dec. 31, 1986	June 26, 1987	July 21, 1987.
Hutchinson: 3d Cir	Jan. 2, 1987	do	Do.
Wolle: S.D. Ia	Apr. 30, 1986	July 2, 1987	Do.
Ellis: E.D. Va	Nov. 30, 1986	do	Do.

Anthony J. Scirica, the first nominee in this group, has been nominated to the U.S. Court of Appeals for the Third Circuit. The nominee has served since 1984 as a U.S. district judge for the eastern district of Pennsylvania. Previously, he served 4 years as a State trial court judge, and 8 years as a member of the Pennsylvania House of Representatives, where he chaired the subcommittee on crime and corrections. As a legislator, he was the principal author of sentencing reform legislation, and, as a State court judge, served as chairman of the Pennsylvania Commission on Sentencing. From 1966 through 1980 he was in private practice in Norristown, PA, concentrating on general corporate matters and litigation. Judge Scirica, 46, is a graduate of Wesleyan University and of the University of Michigan Law School. A majority of the American Bar Association's Standing Committee on the Federal Judiciary rated him exceptionally well qualified—the highest possible rating, while a minority found him well qualified. His reputation among the bar and interested members of the public appears to be outstanding.

At the hearing on July 21, Judge Scirica, after being introduced by Senators HEINZ and SPECTER, responded satisfactorily to questions concerning the value of trial experience for an appellate judge; the roles of legislatures and courts in applying constitutional principles to new technology; the tension between personal jurisprudence and precedent; and judicial activism. In response to followup questions, Judge Scirica gave his views on sentencing guidelines and appellate review of sentencing decisions.

William D. Hutchinson has also been nominated to the U.S. Court of Appeals for the Third Circuit. The nominee has served since 1981 as a justice of the Supreme Court of Pennsylvania. His prior experience was in private practice in Pottsville, PA, in a general practice that included representation of several local government bodies. He also served for 10 years as a member of the Pennsylvania House of Representatives, where he chaired the Subcommittee on courts. Justice Hutchinson, who is 55 years old, is a graduate of Moravian College and Harvard Law School. His ABA rating is well qualified. His reputation among the bar and public appears to be excellent.

At the hearing on July 21, the nominee, after being introduced by Senators HEINZ and SPECTER, was examined concerning the following subjects: the value to a judge of legislative experience; the transition from the State to the Federal court system; the purposes of the criminal justice system; the role of stare decisis and precedent; and judicial activism. His responses were satisfactory.

Charles R. Wolle, the third nominee, has been nominated to the U.S. District Court for the Southern District of Iowa. The nominee has served since 1983 as a justice of the Iowa Supreme Court, and from 1981-83 as a trial judge in an Iowa State court. From 1961 to 1980 he conducted a private law practice in Sioux City, IA, concentrating in trial practice and labor law. Justice Wolle, 51, is a graduate of Harvard College and the Iowa University Law School. He appears to be well regarded by his professional colleagues and other associates, and was rated well qualified by the ABA.

At the hearing on July 21, at which he was introduced by Senator GRASSLEY, Justice Wolle was examined concerning the value of appellate experience for a trial judge; the roles of lawyers and judges in settling cases; the enforcement of court orders; and deference to legislative decisionmaking. His responses were satisfactory.

T.S. Ellis III, the final nominee in this group, has been nominated to be U.S. District judge for the eastern district of Virginia. Mr. Ellis' entire legal career has been spent in a private law firm in Richmond, where he has conducted a general litigation practice and has been a partner since 1976. The nominee is 47 years old, a graduate of Princeton University and Harvard Law School, and holds a diploma in law from Oxford University. He appears well regarded throughout the legal community and among others in Virginia, and was rated well qualified by the ABA.

At the hearing on July 21, Mr. Ellis was introduced by Senator WARNER, and responded satisfactorily to questions concerning his pro bono activities, judicial activism, and legislative intent. In response to written questions, the nominee discussed what he has learned from trying complex cases; his teaching activities at Oxford during a sabbatical taken in 1984; and the transition from the role of advocate to that of judge.

Mr. President, this concludes my summary of the record on these nominations. I believe that all these nominees are worthy of confirmation to the important posts to which they have been nominated.●

RECOGNIZING BURT FOLSOM

● Mr. McCONNELL. Mr. President, I rise today to recognize and congratulate an outstanding Kentuckian, Burt Folsom, associate professor of history at Murray State University. He is the author of "Entrepreneurs versus the State," which will be published this fall by the Young Ameica's Foundation. His scholarship is a credit to the Commonwealth of Kentucky and provides an important historical perspective to our Nation's business and industrial development.

Burt recently wrote an article, published in the Wall Street Journal, entitled "Entrepreneurs versus the Textbooks." I think this article is quite interesting, and the point he makes is a valid one, and I would like to bring it to the attention of my colleagues.

I am most proud of Burt Folsom and his historical research of these values of capitalism. I would also note that Burt has the distinction of being married to a former staff member of my office, Anita Folsom, whose service as a field representative in Kentucky was invaluable to me. I congratulate Burt on being published in the Wall Street Journal and wish both he and Anita the best of luck.

Mr. President, I most definitely enjoyed reading "Entrepreneurs versus the Textbook" and ask that this article be printed in the RECORD for the benefit of my colleagues.

The article follows:

[From the Wall Street Journal, July 22, 1987]

ENTREPRENEURS VERSUS THE TEXTBOOKS

(By Burt Folsom)

Late last century, America's rise to power in the world was often a story of masterly entrepreneurship. Led by Andrew Carnegie in steel and John D. Rockefeller in oil, the U.S. became the industrial showcase of the world.

How did Carnegie and Rockefeller do so well? They cut costs, innovated, vertically integrated, and give bonuses on the basis of merit. Competitors who did not do these things fell by the wayside, but consumers and job-seekers benefited from low prices and American dominance.

The 1980s are also an age of entrepreneurship, but we don't turn for wisdom to the entrepreneurs of yesteryear. One reason is that historians often tell us not to. The message still sent forth from the leading college textbooks in American history is that our early industrialists were robber barons, whose unsavory escapades had to be regulated by the federal government for the good of the consumer.

In "The National Experience," C. Vann Woodward of Yale admires Carnegie's efficiency but says, "His trail to the top was strewn with ruined competitors, crushed partners, and broken labor movements." The fact is that these strewn bodies were often those of Englishmen and Americans who wanted to charge higher prices for their steel and their labor. Their story is sad, but it might have been sadder for the U.S. had Carnegie not come along and cut the price of making steel from $56 to $11.50 a ton. Thanks to Carnegie the U.S., not England or Germany, led the world in steel production.

Rockefeller fares even worse in the textbooks. Oddly, Mr. Woodward condemns Rockefeller for "price-slashing." In "The American Nation," John Garraty of Columbia University says Rockefeller was ruthless to his inefficient competitors. The same story is told by the late Thomas Bailey of Stanford, whose "The American Pageant" has sold more than two million copies. Mr. Bailey says that Rockefeller "pursued a policy of rule or ruin," and did so because he believed that "a kind of primitive savagery prevailed in the jungle world of big business."

These authors completely ignore the key economic event in Rockefeller's career: his epic battle against the Russians in the 1880s for the world oil trade. The Russians, in their plentiful oil fields at Baku, had a richer, more viscous oil that yielded 280 barrels per well per day, compared with 4.5 barrels per day from American wells. Also, Russia was closer to European countries, many of which slapped high tariffs on U.S. oil. Yet Rockefeller's Standard Oil ran such an innovative, efficient operation—from the making of barrels to the deploying of ocean tankers—that it could sell oil for an incredible seven cents a gallon ("price-slashing" to Mr. Woodward) and thereby outmaneuver the Russians for most of the world oil trade.

The biases that occur in the text of these college textbooks should be obvious, but more subtle ones can be found in the pictures selected and the captions adopted. For example, cartoons of fat industrialists biking the public are common. Mr. Bailey includes a cartoon of Rockefeller holding the White House in his hand. Mr. Woodward chooses a picture of banker J.P. Morgan with what appears to be a knife in his left hand. The caption reads: "J. Pierpont Morgan: a passion for order." Mr. Bailey includes a photograph of Morgan waving an umbrella, but it looks like a sword.

Grover Cleveland, who was friendly with many of the entrepreneurs, receives a photograph with the caption "stubborn conservative" in the Woodward textbook. By contrast, Jane Addams, a social reformer, receivces a photograph and this caption: "Jane Addams with her aides: she cared for the poor."

After showing how entrepreneurs often "corrupted" the rise of big business, textbook authors reveal their solution: government intervention. Often cited as needing federal aid are the transcontinental railroads. "Some system of subsidy was essential," states John Garraty. Not true. In fact, the four transcontinentals that were so subsidized all went bankrupt. The one transcontinental built with no federal aid—James J. Hill's Great Northern—never went bankrupt. It was the best-built, best-paying line of the lot.

Government regulation, the textbooks tell us, also was needed. According to Mr. Bailey, "a revolutionary new principle was written into the law books by the Sherman Antitrust Act of 1890, as well as by the Interstate Commerce Act of 1887. Private greed must henceforth be subordinated to public need."

Hill, again, is our antidote. He built two steamships and merged three railroads to make one large, efficient system to enter world trade. It worked. Hill beat England and Belgium and captured Oriental markets in railroads, cotton and food. Then the Interstate Commerce Commission told him he couldn't give special discounts; the Supreme Court told him he couldn't merge the three railroads. Bigness, the trust-busters said (and the textbooks concurred), was badness. Ever since Hill, the Sherman Act has left corporate debris and sad consumers all over the American landscape. AT&T is the most recent casualty of an antitrust law so vague that it can literally be interpreted to bar almost all acts of trade.

As the role of government increased in our society this century, we gradually neglected the lessons taught by past entrepreneurs. Those countries that cut costs, innovated and rewarded achievers began to surpass us. As these countries copied Rockefeller, now we are trying to copy them—unaware that we are often imitating our own entrepreneurs of 100 years ago.

History teaches us much that we should know. It's too bad the history textbooks don't do more of the same.●

PLYWOOD TARIFF PROVISION

● Mr. BAUCUS. Mr. President, as the principal Senate proponent of the plywood tariff provision, the second section of amendment No. 443 to the trade bill, I ask to be recognized for the purpose of stating my understanding of the effect that the enactment of that provision would have on the pending Harmonized Code.

The plywood provision amends a headnote to the present Tariff Schedule of the United States. As we know, the administration shortly will ask the Congress to approve a new tariff coding system, the Harmonized Commodity Description and Coding System for a new Tariff Schedule. The United States has participated in the development of that code for 12 years, as mandated by section 608 of the Trade Act of 1974. On the motion a few days ago of the distinguished Senator from Hawaii, who is chairman of the Senate Finance Trade Subcommittee, we adopted amendment 336 to this trade bill, which provides for fast-track consideration of the Harmonized Code.

The question may arise as to how this plywood tariff change would be treated by the Harmonized Code, which has been the subject of international negotiation. Clearly, we intend that an adjustment be made in the new coding system so that the Harmonized Code will be consistent with the revision to the TSUS made by the plywood amendment.

A 10-digit product coding system will be used by the United States once the Harmonized Code is implemented. However, only the first six of those identification digits are internationally mandated by the rules of the Harmonized System Convention, which body the United States joined pursuant to Senate approval of Treaty Document 97-23 on June 21, 1983. The 7th through 10th digits may be unilaterally changed by the United States.

The administration's proposed bill to implement the Harmonized Code spe-

cifically refers to transitional modifications. Section 1(g)(2) of the proposed bill states:

As part of such proclamation [of the new system], the President shall take such action as he deems necessary to incorporate such legislation and proclamations enacted or issued subsequent to May 1, 1987, or other modifications necessary or appropriate to implement existing import programs.

This provision thus would provide the Presidential authority necessary to alter the identification digits above six of the new U.S. Harmonized Code in order to take new legislation into account.

In the case of the plywood at issue in this amendment, the necessary change would be to the seventh and eighth digits that are used to distinguish products within the general six-digit classification of 4412-19.

Thus, I believe the record is clear that the change made by the plywood amendment would be administratively incorporated into the Harmonized Code without the need for either international negotiation or further action by Congress.●

BUDGET SCOREKEEPING REPORT

● Mr. CHILES. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.3 billion in budget authority, but over in outlays by $15.9 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC., July 28, 1987.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1987. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, Senate Concurrent Resolution 120. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32 and is current through July 24, 1987. The report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended. At your request this report incorporates the CBO economic and technical estimating assumptions issued on January 2, 1987.

Spending, revenues, and loan levels are unchanged since my last report. This report, however, reflects the expiration of the temporary statutory debt limit.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100th CONGRESS, 1st SESSION AS OF JULY 24, 1987

[Fiscal year 1987—In billions of dollars]

	Current level [1]	Budget resolution S.Con.Res. 120	Current level +/− resolution
Budget authority	1,093.0	1,093.4	−.3
Outlays	1,010.9	995.0	15.9
Revenues	833.9	852.4	−18.5
Debt subject to limit	2,285.7	[2] 2,322.8	−37.1
Direct loan obligations	42.2	34.6	7.7
Guaranteed loan commitments	140.6	100.8	39.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The temporary statutory debt limit of $2,320 billion expired on July 17, 1987. The current statutory debt limit is $2,111 billion.

FISCAL YEAR 1987 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 100TH CONGRESS, 1ST SESSION, AS OF JULY 24, 1987

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			833,855
Permanent appropriations and trust funds	720,451	638,771	
Other appropriations	542,890	554,239	
Offsetting receipts	−185,071	−185,071	
Total enacted in previous sessions	1,078,269	1,007,938	833,855
II. Enacted this session:			
Water Quality Act of 1987 (Public Law 100-4)	−4	−4	
Emergency Supplemental for the Homeless (Public Law 100-6)	−7	−1	
Surface Transportation and Relocation Act (Public Law 100-17)	10,466	−80	2
Technical Corrections to FERS Act (Public Law 100-20)	1	1	
Prohibit entrance fees at the Statue of Liberty Monument (Public Law 100-55)	1	1	
SBA Program and Authorization Amendments (Public Law 100-72)	−43		
Supplemental Appropriations, 1987 (Public Law 100-71)	4,212	3,018	
Total enacted this session	14,625	2,935	2
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Special milk	22		
Veterans compensation	93		
Readjustment benefits	99		
Federal unemployment benefits and allowances	33	333	
Advances to the unemployment trust funds	(3)	(3)	
Payments to health care trust funds [1]	(224)	(224)	
Medical facilities guarantee and loan fund	5	4	
Payment to civil service retirement and disability fund [1]	(33)	(33)	
Coast Guard retired pay	3	3	
Total entitlements	145	40	
Total current level as of July 24, 1987	1,093,039	1,010,913	833,857

FISCAL YEAR 1987 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 100TH CONGRESS, 1ST SESSION, AS OF JULY 24, 1987—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
1987 budget resolution (S Con. Res. 120)	1,093,350	995,000	852,400
Amount remaining:			
Over budget resolution		15,913	
Under budget resolution	311		18,543

[1] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.●

COLOMBIA'S FUTURE

● Mr. CHILES. Mr. President, I returned this week from a brief visit to Bogotá, Colombia.

My trip was prompted by my continuing concern about the amount of narcotics entering the United States from South America. Eighty percent of cocaine consumed in this country comes from the region and most of it enters through my State of Florida.

Colombia processes much of this cocaine.

First, I want to report there is progress by the Colombian Government to control the drug flow. The efforts to eradicate the cannabis crops have been significant.

Seizures of precursor chemicals, used in processing cocaine, have increased. Destruction of hundreds of small base laboratories is being realized.

Crop substitution is being encouraged more by government actions and policy.

And, cooperation amongst the military, national police, and our own DEA continues.

Yet, all of this progress is overshadowed by one fact—90 metric tons of cocaine was exported from Colombia last year.

That fact underscores that Colombia is not doing enough to combat the cocaine trade.

The obstacles are many and possible solutions complex.

Government officials claim a lack of resources and manpower to sustain the mass attacks needed against those who manufacture and transport the cocaine. Colombian Minister of Defense Samudio told me he has only 75,000 militia and 60,000 national police to cover his entire country, the fourth largest in Latin America.

The involvement of guerrillas with drug syndicates raises serious political questions and strategy.

There is a critical absence of investigative capability by the Colombian criminal justice system.

The major, larger hydrocholoride laboratories are located and camouflaged in the eastern region, the llanos. This region's terrain, dense fo-

liage and lack of roads makes it extremely difficult and costly to develop and implement tactical strategies against the drug industries.

And, most significantly, there is a total lack of respect amongst the narcotic cartels for the judicial and penal systems of Colombia.

The cooperative exercise of the 1979 extradition treaty has been the only force that they fear. Now, that treaty is in jeopardy.

My chief reason for traveling to Bogotá was to deliver a message about the treaty. My message was simple: The treaty is crucial to United States and Colombian efforts in stopping the major drug kingpins.

I met with President Barco who showed his intent and courage last December in signing the ratification legislation for the extradition treaty. The President's leadership is crucial to his Government's acceptance of the treaty.

But he cannot act alone. I also discussed the treaty with the President of the Colombian Supreme Court which recently found unconstitutional the ratification process which had sustained the treaty. The court under extreme intimidation by the narcotic cartels has had 14 of its justices murdered. This court must now reconsider the future of extradition by Colombia. In my view, this decision is key to addressing those who trade in narcotics.

Mr. President, Colombia is a healthy country in many respects.

Its economy is stable, especially in relation to other South American countries. It has a deficit of only 2 percent of its GDP of $35 billion and the country is able to keep pace with its international loans.

The country has lucrative industries in coffee, rice, bananas and flowers. These products continue as their major trade exports and provide the country with a solid, economic backbone.

Colombia has much to gain by bringing the worldwide attention to these industries instead of cocaine which continues to blacken its international reputation.

I saw signs that the public attitude toward narcotics in Colombia is changing. This has been prompted by increasing drug abuse amongst Colombians and by the relationship of the drug traffickers with the insurgents. There are many people in Colombia who desperately want change. Courageous Colombians from business, academia, media, and the arts continue to speak out against the drug lords. Many have been personally threatened as have their families. Violent threats, murder, kidnappings, and ransom are literally a way of life in Colombia. There were approximately 10,000 murders in Colombia last year amongst its 26 million people. That is roughly the same number of murders in the United States in 1986 but amongst a population 10 times as large.

Mr. President, I desperately want to help Colombia to curtail cocaine production. In doing so, I know I will directly be helping Florida as well as the rest of the United States.

But, I must be sure Colombians will use this help only as a supplement to their own commitment against narcotics. The Colombian Government must show that it is prepared to extend its efforts against cocaine processing and exportation.

Colombia must show that it is willing to cooperate with its neighboring countries to combat processing and trafficking.

The Government of Colombia must be willing to commit additional resources and personnel toward the enforcement and prosecution of the drug traffickers.

And above all, the Government and people of Colombia must be willing to provide the public support and resources necessary to protect those with the responsibilities of carrying out the justice system.

Only 10 years ago, Colombia exported literally no cocaine. Today it is a major source for the world. If Colombians do not erase the effects of the last 10 years, it might soon be too late.

Mr. President, I believe the people of the United States would be willing to support the people of Colombia in their battles against narcotics as long as they know Colombians are willing to fight. I believe they are.

I sensed a swelling frustration mixed with determination that the drug traffickers are not going to rule Colombia. I want that determination to be harvested into action.

The Colombians must show measurable steps in stopping the exportation of 90 metric tons of cocaine. This is the chief barometer the United States will use in judging the country's cooperation.

The United States must also be assured of a valid, cooperative stand on extradition with Colombia. Americans know the drug lords fear our prosecution and sentences. This leverage cannot be foresaken.

Americans rate drug abuse and drug trafficking as their No. 1 domestic concern. That concern has led Congress to strengthen our criminal justice system against drug traffickers. With the growing influence of the narcotic trafficker in their country, Colombians have much at risk. I am hoping that the Colombian people can impress upon their Congress and Government their support for aggressive action against the traffickers.

The United States will be watching.●

INFORMED CONSENT: DELAWARE

● Mr. HUMPHREY. Mr. President, today I would like to insert into the RECORD a letter sent to my office in support of my informed consent legislation, S. 272 and S. 273. Today's letter comes from the State of Delaware.

I ask that the letter from a woman in Delaware be inserted in the RECORD.

The letter follows:

MARCH 10, 1987.

DEAR SENATOR HUMPHREY: I am one who has undergone an abortion over 13 years ago and was totally ignorant of the whole procedure and consequences. At no time was I ever informed of what was going to be done, or what I could expect after undergoing the procedure. I certainly wish this opportunity could have been available to me so I could have made an informed decision. Today, I can say I deeply regret what I did and will never forget it.

Many times I am in a state of depression which I feel is a result of the abortion. I am so thankful though, that the Lord has blessed me with 4 healthy children although my first pregnancy ended in miscarriage, again another result, I'm sure, of the abortion. The painful memory is slightly less than what it would have been had I not had children and I can't imagine what would be my state had I not been able to have children.

I want to thank you for what you are doing in trying to spare other women what I and others have gone through.

Sincerely,

T. MCNEILL.●

THE INTENDED EFFECT OF THE FEDERAL CREDIT REFORM ACT

● Mr. CRANSTON. As chairman of the Subcommittee on Housing and Urban Affairs, I would like to ask the distinguished chairman of the Budget Committee to clarify three issues that greatly concern those who are working to maintain affordability of home ownership in this country. I want to make it clear that the proposed Federal Credit Reform Act of 1987 would not alter the underlying terms and conditions of, or eligibility for, or the amount of assistance provided by either the Federal Housing Administration or the Government National Mortgage Association.

● Mr. CHILES. I thank the Senator for helping to clarify the intent of this legislation. I share his concern for home ownership.

● Mr. CRANSTON. My first question is whether the proposed act would impose or otherwise provide for new ceilings or restrictions on the numbers or total amounts of loans insured by the Federal Housing Administration or covered by guarantees of the Government National Mortgage Association?

● Mr. CHILES. No. This legislation would not impose any limits on credit activity of the Federal Housing Administration or the Government National Mortgage Association that do

not already exist under current law. The credit reform provisions merely alter the way we account for these credit initiatives in the Federal budget.

● Mr. CRANSTON. Second, would enactment of the act in any way threaten or restrict the mutuality feature of the Mutual Mortgage Insurance Fund, under which FHA program users receive a distributive share payment after having paid off their mortgage?

● Mr. CHILES. No, nothing in the proposed act would do that.

● Mr. CRANSTON. Third, many have expressed concern that the act might later be interpreted as giving Treasury Department officials increased influence over Federal support for the mortgage finance system. Is it the Senator's understanding that, if this legislation is enacted, Treasury Department estimates of program subsidies will not be binding on Congress or on FHA or GNMA activities? I would like assurance that the Congressional Budget Office would carefully reestimate any Treasury Department numbers including any subsidy estimates and that the CBO reestimates would prevail in congressional budget decisions, for scorekeeping and other budgetary purposes. I want to make sure that Treasury Department officials would not be able to use estimating procedures to reduce the activities of FHA or GNMA below levels approved by Congress.

● Mr. CHILES. Yes, I am happy to give the Senator assurance on all those concerns. The intent of this legislation is to retain congressional control over the development and establishment of the subsidy estimates that will be used for scorekeeping and other budgetary purposes.

● Mr. CRANSTON. I would like further assurance that the Senator will maintain these positions in the conference on this matter.

● Mr. CHILES. Yes, I will. Mr. President, I would like to assure this body that the purpose of the credit reform legislation is not to alter the underlying terms or conditions of any Federal credit program or to impose restrictions or limitations on credit activity that do not already exist. To the contrary, the credit reform title is intended only to accomplish accounting and credit management improvements.

This legislation establishes the scoring of credit programs on the basis of their subsidy costs, defined as the estimated long-term costs to government. This change replaces the current cash flow accounting method for the allocation of credit, that provides little if any useful information with respect to the actual long-term financial commitment made by the Federal Government through the extension of a direct loan or loan guarantee.

Title III eliminates the need to constantly draft ad-hoc rules regarding the scoring of "gimmickry" savings achieved through the sale or the prepayment of loans. The rules determining the types of transactions that actually lower the deficit will be clear to all parties concerned. Title III does not require the sale of any loans, although it does not preclude them for policy reasons.

Title III does not authorize the reinsurance of Federal guarantees that might result in overstating the costs of those programs to the Treasury. The credit reform legislation is drafted so as not to alter the aggregate cash flow measure of the deficit. Therefore, credit reform will neither add to nor reduce the deficit.

Lastly, the recommendation to restructure the scoring of credit programs so as to allocate loans and guarantees on the basis of their subsidy costs, was endorsed unanimously by the Congressional Budget Office, the General Accounting Office and the Office of Management and Budget, in a Senate Budget Committee hearing on credit reform in March of this year.

In closing, Mr. President, I would like to say that I understand the concern that has been expressed concering the potential for this legislation to affect the amount of assistance provided by the various Federal loan and guarantee programs currently in existence. In response to this concern, I asked the Congressional Budget Office to review the credit reform title and to let me know if any of the credit reform provisions in this legislation would have the impact of imposing new limitations on, or otherwise changing the underlying terms and conditions of existing Federal credit programs. I have received CBO's response and I ask that it be submitted in the RECORD. That letter concurs with my view that this title changes only the budget treatment of credit programs; it does not affect program levels. In brief, CBO has concluded that by including the subsidy cost of new transactions in agency accounts, as called for in title III, "this accounting change would not affect the terms, eligibility for, or the amount of assistance provided to beneficiaries."

● Mr. CRANSTON. I thank the Senator for this clarification, and I commend him for his work on this bill.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 1987.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: At the request of the Committee staff, the Congressional Budget Office has examined a draft (as of July 27, 1987) copy of your proposal to improve the budgetary treatment of federal credit assistance.

CBO believes this bill, by including the subsidy cost of new transactions in the agency accounts, would substantially improve the budgetary treatment of federal credit programs. Further, this accounting change would not affect the terms, eligiblity for, or the amount of assistance provided to beneficiaries.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.●

SENATOR INOUYE'S AIR TRAFFIC CONTROL LEGISLATION

● Mr. HUMPHREY. Mr. President, I am pleased to cosponsor a bill offered by the senior Senator from Hawaii that would free our Nation's air traffic control [ATC] system from the ball and chain of Federal Government overmanagement.

Senator INOUYE's bill, S. 1159, would establish the National Aviation Authority as an independent user-fee supported Government corporation to operate, maintain, and enhance an efficient and responsive national system for air traffic control and management of our airways.

Mr. President, airline deregulation is under fire these days. It has become fashionable in Congress and elsewhere to blame the airlines for the delays and other inefficiencies in our air transportation system. While the airlines bear some responsibility, however, they are not to blame for the woeful inadequacies in our airports and in the ATC system. It is not the deregulation of the airline industry, but the continued overregulation of these other elements of the system that needs to be addressed.

In the case of the ATC system, Senator INOUYE's bill does just that. It would transfer the FAA's current ATC function to a Government corporation, an autonomous body substantially freed from the Federal bureaucracy and financed by existing aviation taxes. In this way, unlike with the current aviation trust fund held hostage by the Federal budget mess, aviation taxes would flow back to the consumer in the form of increased aviation safety and capacity.

Freed from micromanagement by Congress and the Federal bureaucracy, the ATC system would be able to bring on innovative technology in response to traffic growth, at a faster pace and at a lower cost than presently possible.

Regulation of air safety is a proper role for the Federal Government. Running an air traffic control system is not. Only an autonomous ATC corporation can keep pace with the expansion—and the benefits—of the finest air transportation system in the world, allowing a residual FAA to focus exclusively on the enforcement of air safety regulations.

Mr. President, I urge my colleagues to support S. 1159 and create the National Aviation Authority. This bill, combined with steps now finally being made in allocating funds for airport

facilities, will allow our air travel system to accommodate the vast benefits reaped by the American consumer since deregulation in 1978.●

RECESS UNTIL MONDAY AUGUST 3, 1987

Mr. BYRD. Mr. President, does the acting Republican leader have any further business he wishes to transact this evening or any further statement he wishes to make?

Mr. WILSON. Mr. President, I have none.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 o'clock noon on Monday next.

The motion was agreed to, and at 10:05 p.m. the Senate recessed until Monday, August 3, 1987, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate July 31, 1987:

DEPARTMENT OF STATE

Peter R. Sommer, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

THE JUDICIARY

Sam R. Cummings, of Texas, to be United States District Judge for the Northern District of Texas, vice Halbert O. Woodward, retired.

Richard L. Voorhees, of North Carolina, to be United States District Judge for the Western District of North Carolina, vice David Bryan Sentelle, elevated.

IN THE ARMY

The following-named officer for appointment to the grade indicated, under the provisions of Title 10, United States Code, Section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601(a):

To be lieutenant general

Maj. Gen. Fred Hissong, Jr., xxx-xx-xxxx, United States Army.

IN THE NAVY

The following named officer, under the provisions of Title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under Title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Albert J. Herberger, xxx-xx-xxxx xxx-.../1110, U.S. Navy.

IN THE AIR FORCE

The following named officers for permanent promotion in the U.S. Air Force, under the provisions of section 628, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

JUDGE ADVOCATE

To be colonel

Henry P. Fowler, Jr., xxx-xx-xxxx

To be major

David R. Francis, xxx-xx-xxxx

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of sections 593 and 8379, title 10 of the United States Code. Promotions made under section 8379 and confirmed by the Senate under section 593 shall bear an effective date established in accordance with section 8374, title 10 of the United States Code. (Effective dates in parentheses).

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Gerard A. Brangenberg, xxx-xx-xxxx (4/29/87).

Maj. Peter Collins, Jr., xxx-xx-xxxx (5/28/87).

Maj. Terry L. Hughey, xxx-xx-xxxx (5/5/87).

Maj. Wayne B. Larue, Jr., xxx-xx-xxxx (5/3/87).

Maj. Philip C. Lehman, xxx-xx-xxxx (4/10/87).

Maj. Joseph T. Miller, xxx-xx-xxxx (5/3/87).

Maj. Robert L. Myer, xxx-xx-xxxx (5/11/87).

Maj. Arthur G. Nickerson, xxx-xx-xxxx (5/1/87).

Maj. James W. Richardson, xxx-xx-xxxx (5/2/87).

Maj. Arnold E. Sirk, xxx-xx-xxxx (5/15/87).

The following officer for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a view to designation under the provision of section 8067, title 10, United States Code, to perform the duties indicated, provided that in no case shall the following officer be appointed in a grade higher than Major.

JUDGE ADVOCATE

David R. Francis, xxx-xx-xxxx

IN THE MARINE CORPS

The following named Naval Reserve Officers Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, U.S. Code, sections 531 and 2107:

Curtis R. Adair, xxx-...
Brett M. Bartholomaus, xxx-...
Christopher P. Bazin, xxx-...
Corey K. Bonnell, xxx-...
Shawn P. Conlon, xxx-...
Jeffrey P. Davis, xxx-...
Stephen M. French, xxx-...
Daniel T. Friedel, xxx-...
Raymond S. Gerwig, xxx-...
Gerald J. Hudson, xxx-...
Frank A. Kunst, xxx-...
Robert F. Merkel, xxx-...
Steven A. Nightingale, xxx-...
Alison Polgreen, xxx-...
Jon E. Sachrison, xxx-...
Anthony R. Sellitto, xxx-...
Mark A. Simon, xxx-...
Leo Taddeo, xxx-...
Timothy G. Tinner, xxx-...
Jon M. Wells, xxx-...
Fred A. Wood, xxx-...

The following named Marine Corps Enlisted Commissioning Education Program graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code section 531:

Roy P. Ackley, xxx-...
David S. Mazenko, xxx-...
Michael E. Rooney, xxx-...
Richard G. Yakubowski, xxx-...

In the Navy

The following named Naval Reserve Officers' Training Corps Program candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Brian K. Britton
Jeffrey B. Britton
John A. Burton
John H. Cannan
Patrick K. Connor
Don C. Cooper
Tuanb D. Diep
Gregory E. Dixson
Jon W. Gerhardt
Robert L. Hallworth
James C. Humphlett, Jr.
Steven M. James
Kevin S. Jasperson
Shirl D. Johnson
James W. Lees
Hugh B. Loftis
Edward C. Lovelace, Jr.
David C. Mallari
James D. O'Leary, II
William G. Parker
Ray A. Ricario
Anthony Rinaldi
David G. Robertson
Vincent J. Rocchi
Paul G. Schloemer
Mark E. Semmler
Eric N. Stauffer
David A. Strizinger
Dwight D. Turner

The following named Navy enlisted Commissioning Program candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Richard E. Canavaciol
James B. Carnahan
Russell M. Cook
Donald S. Geidel
Dan H. Hill
Donna M. Joyal
Thomas McDowell, Jr.
Bobby J. Pannell
Dennis M. Pendergist
William W. Rowan
Brian D. Steckler
Christopher J. Taylor
Gene F. Wallis
David B. Weiding

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with grade and date of rank to be determined by the Secretary of the Air Force provided that in no case shall the officer be appointed in a grade higher than that indicated.

LINE OF THE AIR FORCE

To be captain

Abbott, Joseph A., xxx-xx-xxxx
Acosta, Fernando L., xxx-xx-xxxx
Adams, Michael E., xxx-xx-xxxx
Adams, Rebecca L., xxx-xx-xxxx
Adang, Peter J., xxx-xx-xxxx
Agurkis, Raymond L., xxx-xx-xxxx
Ainsley, Johnnie D., xxx-xx-xxxx
Albrechtsen, Louis, xxx-xx-xxxx
Albright, Cheryl L., xxx-xx-xxxx
Alder, Mark K., xxx-xx-xxxx
Alfier, Jeffrey C., xxx-xx-xxxx
Ali, Azar S., xxx-xx-xxxx
Allds, Douglas E., Jr., xxx-xx-xxxx
Allen, Aleta S., xxx-xx-xxxx
Allen, Charles M., xxx-xx-xxxx
Allen, David S., Jr., xxx-xx-xxxx
Allen, Kimberly M., xxx-xx-xxxx

Allen, Linda M., xxx-xx-xxxx
Allen, Michael M., xxx-xx-xxxx
Alm, Vance, S., xxx-xx-xxxx
Altier, Paul A., xxx-xx-xxxx
Alton, James H., II, xxx-xx-xxxx
Alvarez, Robert, P., xxx-xx-xxxx
Amato, Gerard, A., xxx-xx-xxxx
Andersen, Kevin, C., xxx-xx-xxxx
Anderson, Daniel, J., xxx-xx-xxxx
Anderson, Marc, H., xxx-xx-xxxx
Anderson, Robert G., Jr., xxx-xx-xxxx
Anderson, Sharon, L., xxx-xx-xxxx
Andersonhicks, Brenda, L., xxx-xx-xxxx
Andrews, Deborah, L., xxx-xx-xxxx
Andrews, Phillip G., xxx-xx-xxxx
Ardoin, Billy R., xxx-xx-xxxx
Arellano, Richard, xxx-xx-xxxx
Ariosto, Thomas P., xxx-xx-xxxx
Armbruster, Timothy P., xxx-xx-xxxx
Armour, John L., xxx-xx-xxxx
Armour, Robert D., xxx-xx-xxxx
Armstrong, Jon W., xxx-xx-xxxx
Artis, Darrell L., xxx-xx-xxxx
Ashton, Mark C., xxx-xx-xxxx
Attaway, David L., xxx-xx-xxxx
Austin, James W., Jr., xxx-xx-xxxx
Babcock, Burce L., xxx-xx-xxxx
Baez, Laurell, xxx-xx-xxxx
Bailey, Benny M., Jr., xxx-xx-xxxx
Bailey, Jan J., xxx-xx-xxxx
Baine, Robert P., III, xxx-xx-xxxx
Bair, Michael W., xxx-xx-xxxx
Baker, Bradley C., xxx-xx-xxxx
Baker, Richard E., xxx-xx-xxxx
Bakke, Daniel B., xxx-xx-xxxx
Baldwin, David L., xxx-xx-xxxx
Baldwin, Vanessa L., xxx-xx-xxxx
Ballew, J. Robert, xxx-xx-xxxx
Ballmer, Candace A., xxx-xx-xxxx
Bandy, Constantine P., xxx-xx-xxxx
Banes, Jeffry M., xxx-xx-xxxx
Bannon, John A., xxx-xx-xxxx
Baptista, Clifford S., xxx-xx-xxxx
Barbery, Tyrone J., xxx-xx-xxxx
Barbour, Steven D., xxx-xx-xxxx
Barker, Patrick R., xxx-xx-xxxx
Barnhill, Jeffrey Kyle, xxx-xx-xxxx
Barr, Lewis E., xxx-xx-xxxx
Barry, Stephen P., xxx-xx-xxxx
Bartholohew, Richard D., xxx-xx-xxxx
Barton, Ronald D., xxx-xx-xxxx
Batchelor, Howard E., xxx-xx-xxxx
Baugh, Robert A., xxx-xx-xxxx
Bauman, William H., III, xxx-xx-xxxx
Bayley, Gregory M., xxx-xx-xxxx
Baylor, Michael P., xxx-xx-xxxx
Becerra, Robert D., xxx-xx-xxxx
Bechtel, Richard A., xxx-xx-xxxx
Beck, Theodore D., III, xxx-xx-xxxx
Bedsole, Alan L., xxx-xx-xxxx
Beem, Randall C., xxx-xx-xxxx
Beer, Bradlee J., xxx-xx-xxxx
Beissner, Kenneth C., xxx-xx-xxxx
Belch, Stephen P., xxx-xx-xxxx
Bell, Roy Q., Jr., xxx-xx-xxxx
Bellacicco, Susan M., xxx-xx-xxxx
Benelli, Michael P., xxx-xx-xxxx
Benjamin, Michael A., xxx-xx-xxxx
Bennett, Bruce W., xxx-xx-xxxx
Bennett, Clinton S., xxx-xx-xxxx
Benton, George W., xxx-xx-xxxx
Berman, William J., xxx-xx-xxxx
Berrie Yvelis, xxx-xx-xxxx
Betor, Monica L., xxx-xx-xxxx
Betrosoff, Bruce A., xxx-xx-xxxx
Bilby, Kirk D., xxx-xx-xxxx
Binger, William B., xxx-xx-xxxx
Bingham, Alfred L., xxx-xx-xxxx
Bird, William H., xxx-xx-xxxx
Birk, Kenneth E., xxx-xx-xxxx
Biviano, Charles J., xxx-xx-xxxx
Black, Ronald E., xxx-xx-xxxx
Blacken, James E., Jr., xxx-xx-xxxx
Blackshear, Lemoyne F., xxx-xx-xxxx
Blackwell, Garland W., xxx-xx-xxxx
Blake, William H., xxx-xx-xxxx
Blakeman, William D., xxx-xx-xxxx
Blasi, Edwin K., xxx-xx-xxxx
Blevins, Charles L., xxx-xx-xxxx
Blind, Stanley T., xxx-xx-xxxx
Bloser, Richard L., xxx-xx-xxxx
Boardman, Brian W., xxx-xx-xxxx
Bockhold, John A., xxx-xx-xxxx
Boggs, John P., xxx-xx-xxxx
Boland, James C., xxx-xx-xxxx
Bonucchi, Laura L., xxx-xx-xxxx
Boon, David L., xxx-xx-xxxx
Boone, Sharon D., xxx-xx-xxxx
Boren, Michael V., xxx-xx-xxxx
Bowen, Timothy E., xxx-xx-xxxx
Bower, James N., Jr., xxx-xx-xxxx
Bowers, John M., xxx-xx-xxxx
Bowman, John M., Jr., xxx-xx-xxxx
Bowman, William C., xxx-xx-xxxx
Boyle, John E., xxx-xx-xxxx
Braaten, Alan J., xxx-xx-xxxx
Braden, Brian A., xxx-xx-xxxx
Bradham, Curtis, xxx-xx-xxxx
Bradley, David C., xxx-xx-xxxx
Bradley, Ingrid K., xxx-xx-xxxx
Brady, Reita L. W., xxx-xx-xxxx
Bralick, William A., xxx-xx-xxxx
Breed, Michael H., xxx-xx-xxxx
Brenton, Jeffery C., xxx-xx-xxxx
Bresette, James L., Jr., xxx-xx-xxxx
Bettell, John E., xxx-xx-xxxx
Briggs, Myrl G., xxx-xx-xxxx
Bright, Randall R., xxx-xx-xxxx
Bronkema, Thomas R., xxx-xx-xxxx
Bronson, Robert R., xxx-xx-xxxx
Brooks, Howard O., xxx-xx-xxxx
Brooks, Jerry, xxx-xx-xxxx
Brown, Daniel J., xxx-xx-xxxx
Brown, Dennis A., xxx-xx-xxxx
Brown, Jerry T., xxx-xx-xxxx
Brown, Joseph D., IV, xxx-xx-xxxx
Brown, Marita D., xxx-xx-xxxx
Brown, Perry W., Jr., xxx-xx-xxxx
Brown, Robert L., xxx-xx-xxxx
Brown, Ronald E., xxx-xx-xxxx
Brown, Scot C., xxx-xx-xxxx
Brown, William R., II, xxx-xx-xxxx
Bruggeman, Mark E., xxx-xx-xxxx
Brumley, Barrington L., xxx-xx-xxxx
Bruner, William W., III, xxx-xx-xxxx
Bryant, Robert J., xxx-xx-xxxx
Buchanan, Johnny H., xxx-xx-xxxx
Bucknall, David M., xxx-xx-xxxx
Budds, John J., Jr., xxx-xx-xxxx
Buie, David E., xxx-xx-xxxx
Bullock, Walter M., Jr., xxx-xx-xxxx
Burdsal, Robert L., xxx-xx-xxxx
Burgess, Charles B., xxx-xx-xxxx
Burke, David P., xxx-xx-xxxx
Burkholder, David L., xxx-xx-xxxx
Burnett, Robert E., Jr., xxx-xx-xxxx
Burns, Michael L., xxx-xx-xxxx
Burrell, Alison D., xxx-xx-xxxx
Burrill, Gordon F., xxx-xx-xxxx
Burton, Clayton A., xxx-xx-xxxx
Burtt, Anne W., xxx-xx-xxxx
Butcher, Glenn G., xxx-xx-xxxx
Byers, Timothy A., xxx-xx-xxxx
Byron, B. Kimball, xxx-xx-xxxx
Cabiao, Benhur C., xxx-xx-xxxx
Cabral, Daniel J., xxx-xx-xxxx
Cadenhead, Thomas S., xxx-xx-xxxx
Cadieux, Michel P., xxx-xx-xxxx
Caicedo, Julio C., Jr., xxx-xx-xxxx
Caldwell, James A., xxx-xx-xxxx
Calhoon, John P., Jr., xxx-xx-xxxx
Camacho, Jorge F., xxx-xx-xxxx
Campbell, Lawrence E., xxx-xx-xxxx
Caraway, Pamela Amos, xxx-xx-xxxx
Cargill, Courtney S., xxx-xx-xxxx
Carlson, Jay S., xxx-xx-xxxx
Carlson, Richard W., xxx-xx-xxxx
Carr, David B., xxx-xx-xxxx
Carr, David W., xxx-xx-xxxx
Carr, Stewart G., xxx-xx-xxxx
Carrigg, James R., xxx-xx-xxxx
Carrillo, Luis D., xxx-xx-xxxx
Carroll, Donald L., xxx-xx-xxxx
Carson, Christopher, xxx-xx-xxxx
Carstens, Jeffrey S., xxx-xx-xxxx
Carter, Cynthia E., xxx-xx-xxxx
Carter, David E., xxx-xx-xxxx
Carter, Joseph E., Jr., xxx-xx-xxxx
Case, Douglas R., xxx-xx-xxxx
Cashmon, Maureen P., xxx-xx-xxxx
Casper, Timothy J., xxx-xx-xxxx
Cataldi, Robert R., II, xxx-xx-xxxx
Cate, Kenneth R., xxx-xx-xxxx
Cates, James W., xxx-xx-xxxx
Caudill, Michael A., xxx-xx-xxxx
Cavanaugh, Jonathon A., xxx-xx-xxxx
Cerrone, Armand A. S., xxx-xx-xxxx
Chan, George Y., xxx-xx-xxxx
Chandler, George R., Jr., xxx-xx-xxxx
Chariton, Scott F., xxx-xx-xxxx
Chmitlin, Tommy L., xxx-xx-xxxx
Cholka, Stephen S., xxx-xx-xxxx
Christiansen, James, xxx-xx-xxxx
Christianson, Victor O., xxx-xx-xxxx
Churchill, Raymond L., xxx-xx-xxxx
Jonathan G., xxx-xx-xxxx
Clardy, Marde J., xxx-xx-xxxx
Clark, David T., xxx-xx-xxxx
Clark, Marcia B., xxx-xx-xxxx
Clark, Stephen C., xxx-xx-xxxx
Clarke, Peter P., xxx-xx-xxxx
Clayton, Carl W., xxx-xx-xxxx
Clements, John R., xxx-xx-xxxx
Clements, Mark W., xxx-xx-xxxx
Clevenger, Daniel R., xxx-xx-xxxx
Cochran, Ronald D., xxx-xx-xxxx
Codispoti, Joseph M., xxx-xx-xxxx
Coffel, Dannie P., xxx-xx-xxxx
Cogburn, James L., xxx-xx-xxxx
Cogdell, Levern M., xxx-xx-xxxx
Coghlin, Mark T., xxx-xx-xxxx
Cohn, Mark L., xxx-xx-xxxx
Colaianni, Mary L., xxx-xx-xxxx
Colbert, Frank J., xxx-xx-xxxx
Colburn, Robert S., xxx-xx-xxxx
Colclasure, Robert S., xxx-xx-xxxx
Colello, Matteo, III, xxx-xx-xxxx
Coleman, John L., xxx-xx-xxxx
Collins, Dale H., xxx-xx-xxxx
Comeaux, William J., xxx-xx-xxxx
Conder, Charles E., Jr., xxx-xx-xxxx
Cone, James M., xxx-xx-xxxx
Conforti, Richard N., Jr., xxx-xx-xxxx
Conner, Kevin S., xxx-xx-xxxx
Connor, William B., III, xxx-xx-xxxx
Connors, Thomas E., xxx-xx-xxxx
Conover, Frank V., xxx-xx-xxxx
Conrad, Jeffrey P., xxx-xx-xxxx
Conrad, Walter M., xxx-xx-xxxx
Cook, Timothy M., xxx-xx-xxxx
Coolidge, Michael B., xxx-xx-xxxx
Cooper, Brian K., xxx-xx-xxxx
Cooper, Robert E., Jr., xxx-xx-xxxx
Coover, John A., xxx-xx-xxxx
Cormier, Philip G., xxx-xx-xxxx
Corneliussen, Dian M., xxx-xx-xxxx
Correll, Burt F., xxx-xx-xxxx
Correll, Raymond L., xxx-xx-xxxx
Cortalano, Bruce J., xxx-xx-xxxx
Cortese, Norman M., xxx-xx-xxxx
Cosat, John W., Jr., xxx-xx-xxxx
Coulliette, David Lee, xxx-xx-xxxx
Courville, Otis J., xxx-xx-xxxx
Cousins, Eddie, Jr., xxx-xx-xxxx
Covas, Lourdes A., xxx-xx-xxxx
Coward, James L., xxx-xx-xxxx
Cox, Ernest L., Jr., xxx-xx-xxxx
Cox, Timothy L., xxx-xx-xxxx
Cozzone, Adolfo, xxx-xx-xxxx
Craig, Michael D., xxx-xx-xxxx
Crane, John S., xxx-xx-xxxx
Crockett, Carl E., xxx-xx-xxxx

Crouch, James M., xxx-xx-xxxx
Crowley, Michael P., xxx-xx-xxxx
Cruz, Carmelo, xxx-xx-xxxx
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The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform duties indicated with grades and dates of rank to be determined by the Secretary of the Air Force provided that in no case shall the officers be appointed in a grade higher than captain.

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Cramer, Cynthia M., xxx-xx-xxxx
Cramer, Jeanette M., xxx-xx-xxxx
Cree, Diane D., xxx-xx-xxxx
Damico, Elizabeth A., xxx-xx-xxxx
Davis, Kimberly A., xxx-xx-xxxx
Davison, Susan M., xxx-xx-xxxx
Dean, William M., xxx-xx-xxxx
Dehner, Randall L., xxx-xx-xxxx
Deitz, Lorna J., xxx-xx-xxxx
Deshazo, Suzanne M., xxx-xx-xxxx
Dewildt, Donna L., xxx-xx-xxxx
Deyak, Diane L., xxx-xx-xxxx
Dottin, Denise L., xxx-xx-xxxx
Dunn, Kathleen M., xxx-xx-xxxx
Duong, Diep N., xxx-xx-xxxx
Epps, Janice, xxx-xx-xxxx
Erbach, Nancy A., xxx-xx-xxxx
Flanagan, Donald J., xxx-xx-xxxx
Fletcher, Diane L., xxx-xx-xxxx
Floersch, Patricia, xxx-xx-xxxx
Fogger, Susanne E., xxx-xx-xxxx
Frank, Diana L., xxx-xx-xxxx
Fritsch, Glenae E., xxx-xx-xxxx
Gensheimer, Cotton Helen M., xxx-xx-xxxx
George, Lori S., xxx-xx-xxxx
Geschkenedervelt, Barbara A., xxx-xx-xxxx
Gingras, Lorraine L., xxx-xx-xxxx
Godfrey, George W., Jr., xxx-xx-xxxx
Goitia, Eugenio, Jr., xxx-xx-xxxx
Goodell, Stephen C., xxx-xx-xxxx
Gottschalk, Robert J., xxx-xx-xxxx
Gouner, Warren H., xxx-xx-xxxx
Gouthro, Linda D., xxx-xx-xxxx
Graef, Theresa L., xxx-xx-xxxx
Gravette, Star C., xxx-xx-xxxx
Green, Gail M., xxx-xx-xxxx
Greene, Michael G., xxx-xx-xxxx
Grijalva, Melinda D., xxx-xx-xxxx
Guffee, Mary E., xxx-xx-xxxx
Haeger, Linda I., xxx-xx-xxxx
Hall, Vivian, xxx-xx-xxxx
Hardin, Sylvia A., xxx-xx-xxxx
Hardy, Janice L., xxx-xx-xxxx
Hargis, Rebecca M., xxx-xx-xxxx
Hart, Mary K., xxx-xx-xxxx
Hartl, Nancy D., xxx-xx-xxxx
Harvey, Alice J., xxx-xx-xxxx
Haverlack, Janet A., xxx-xx-xxxx
Haynes, Vickie L., xxx-xx-xxxx
Hebert, Roger G., xxx-xx-xxxx
Heist, Dawn E., xxx-xx-xxxx
Hessert, David, xxx-xx-xxxx
Hickman, Constance D., xxx-xx-xxxx

Hilton, Carole A., xxx-xx-xxxx
Himmelberg, Kirsten E., xxx-xx-xxxx
Hoback, Amanda J., xxx-xx-xxxx
Holt, James P., xxx-xx-xxxx
Hutchison, Kathleen E., xxx-xx-xxxx
Jackson, Annie B., xxx-xx-xxxx
Joganic, Rosemary A., xxx-xx-xxxx
Johnston, Brenda K., xxx-xx-xxxx
Jones, Albert S., Jr., xxx-xx-xxxx
Jones, Karen L., xxx-xx-xxxx
Kindel, David E., xxx-xx-xxxx
Kirkpatrick, Daniel R., xxx-xx-xxxx
Kisner, Linda C., xxx-xx-xxxx
Kloppel, Julie A., xxx-xx-xxxx
Kosh, Suber Jacquelyn D., xxx-xx-xxxx
Kost, Brenda L., xxx-xx-xxxx
Kuhn, Barbara L., xxx-xx-xxxx
Larson, David M., xxx-xx-xxxx
Lee, Amy, xxx-xx-xxxx
Lee, Donald A., xxx-xx-xxxx
Lemke, Sharon A., xxx-xx-xxxx
Leone, Mariacristina, C., xxx-xx-xxxx
Lepper, Arlene G., xxx-xx-xxxx
Lewin, Marianne C., xxx-xx-xxxx
Lewton, Diane R., xxx-xx-xxxx
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Lunsford, Victor J., xxx-xx-xxxx
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Lypek, Douglas J., xxx-xx-xxxx
Madden, Pamela G., xxx-xx-xxxx
Malec, John J., xxx-xx-xxxx
Martin, Karen M., xxx-xx-xxxx
McCall, William G., xxx-xx-xxxx
McCune, Ann G., xxx-xx-xxxx
McGee, Charlie H., III, xxx-xx-xxxx
McGrew, Penelope A., xxx-xx-xxxx
McKenna, Kimberly A., xxx-xx-xxxx
McRae, Anne C., xxx-xx-xxxx
Mermann, Mary A., xxx-xx-xxxx
Mickunas, Judith A., xxx-xx-xxxx
Moran, Ned L., xxx-xx-xxxx
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Morrissey, Joan E., xxx-xx-xxxx
Naftzger, Lisa A., xxx-xx-xxxx
Namdar, Deborah A., xxx-xx-xxxx
Ohara, Susan M., xxx-xx-xxxx
Palmer, Abigail M., xxx-xx-xxxx
Palmer, Thomas R., xxx-xx-xxxx
Perkins, Darlene M., xxx-xx-xxxx
Peters, Susan E., xxx-xx-xxxx
Pineau Janet E., xxx-xx-xxxx
Pitell, Gregory, xxx-xx-xxxx
Privett, Sharon, J., xxx-xx-xxxx
Prizer, Stephen, E., xxx-xx-xxxx
Randall, Lynn T., xxx-xx-xxxx
Randall, Todd M., xxx-xx-xxxx
Rantz, Pamela J., xxx-xx-xxxx
Reinhard, Joyce M., xxx-xx-xxxx
Reymann, Jane E., xxx-xx-xxxx
Riffle, Gregory L., xxx-xx-xxxx
Ronnerud, Clara L., xxx-xx-xxxx
Sammons, Joann E., xxx-xx-xxxx
Sanders, Lynda C., xxx-xx-xxxx
Scanlon, Elizabeth A., xxx-xx-xxxx
Schlegel, Vernola A., xxx-xx-xxxx
Shafer, Michaela R., xxx-xx-xxxx
Sievert, David A., xxx-xx-xxxx
Simpson, Karen L., xxx-xx-xxxx
Simpson, Vicki L., xxx-xx-xxxx
Smith, Carion, xxx-xx-xxxx
Smith, Wilbur K., xxx-xx-xxxx
Snell, Jinada L., xxx-xx-xxxx
Somma, Joseph J., xxx-xx-xxxx
Steberl, Carol A., xxx-xx-xxxx
Stefanski, Richard A., xxx-xx-xxxx
Stephenson, Yvette E., xxx-xx-xxxx
Stewart, Patricia A., xxx-xx-xxxx
Stock, Cheryl A., xxx-xx-xxxx
Stockdale, Mary A., xxx-xx-xxxx
Stosic, Mary J., xxx-xx-xxxx
Stultz, Margaret A., xxx-xx-xxxx
Swansburg, Philip W., xxx-xx-xxxx
Sykes, Catherine I., xxx-xx-xxxx
Sylvester, James C., xxx-xx-xxxx
Thomas, Jeanne M., xxx-xx-xxxx
Thornton, Robert E., Jr., xxx-xx-xxxx
Tillman, Thomas N., Jr., xxx-xx-xxxx
Treece, Terry L., xxx-xx-xxxx
Turner, Thomas O., xxx-xx-xxxx
Velezbustos, Wanda, xxx-xx-xxxx
Vorwald Patricia M., xxx-xx-xxxx
Walls, Steven E., xxx-xx-xxxx
Watts, Deborah L., xxx-xx-xxxx
Wegner, Jane L., xxx-xx-xxxx
Weinschenker, Lorena, xxx-xx-xxxx
Welter, Therese M., xxx-xx-xxxx
Williams, Blondenia J., xxx-xx-xxxx
Willis, Gregory, xxx-xx-xxxx
Wolf, Kristan J. T., xxx-xx-xxxx
Young, Linda M., xxx-xx-xxxx
Young, Nancy M., xxx-xx-xxxx

MEDICAL SERVICE CORPS

Anderson, Douglas E., xxx-xx-xxxx
Anderson, Gerald G., xxx-xx-xxxx
Baldwin, Joseph H., xxx-xx-xxxx
Blueitt, Pauletta D., xxx-xx-xxxx
Borg, Randy B., xxx-xx-xxxx
Boyles, David M., xxx-xx-xxxx
Brookes, Robert C., II, xxx-xx-xxxx
Cardenas, Steven L., xxx-xx-xxxx
Chrzan, Thomas J., xxx-xx-xxxx
Ciuro, Awilda, xxx-xx-xxxx
Coleman, Nathan J., xxx-xx-xxxx
Concepcion, Rene C., xxx-xx-xxxx
Counsman, James P., xxx-xx-xxxx
Counsman, Valerie P., xxx-xx-xxxx
Daubard, Winifred J., xxx-xx-xxxx
Dawson, Scott M., xxx-xx-xxxx
Feeser, Michael T., xxx-xx-xxxx
Furby, Robert G., xxx-xx-xxxx
Gessler, Maureen A., xxx-xx-xxxx
Holstein, Jeffrey M., xxx-xx-xxxx
Holway, Michael P., xxx-xx-xxxx
Kirschner, Corey A., xxx-xx-xxxx
Maniece, Doron N., xxx-xx-xxxx
Matthews, Joanna G., xxx-xx-xxxx
McClave, Christopher C., xxx-xx-xxxx
McDearis, Ronald O., xxx-xx-xxxx
Melvin, Gary S., xxx-xx-xxxx
Migliaccio, Eugene A., xxx-xx-xxxx
Odom, Lamar, xxx-xx-xxxx
ONeill, Martin B., xxx-xx-xxxx
Parish, Gregory L., xxx-xx-xxxx
Penrod, John A., Jr., xxx-xx-xxxx
Plourde, Alfred E., Jr., xxx-xx-xxxx
Poulsen, Michael J., xxx-xx-xxxx
Power, Kimberley K., xxx-xx-xxxx
Presson, Mark A., xxx-xx-xxxx
Richey, James L., xxx-xx-xxxx
Sarantakos, Elliot, xxx-xx-xxxx
Sherlock, Robert D., xxx-xx-xxxx
Smith, William C., xxx-xx-xxxx
Triche, Gary J., xxx-xx-xxxx
Waite, Nancy A., xxx-xx-xxxx
Williams, Brian J., xxx-xx-xxxx
Wolak, Charles K., xxx-xx-xxxx
Woods, Frederick L., xxx-xx-xxxx
Young, David L., xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

Agostinelli, Joseph R., xxx-xx-xxxx
Atkins, Isaac, Jr., xxx-xx-xxxx
Bachmann, Jeffrey L., xxx-xx-xxxx
Bandy, Thomas W., xxx-xx-xxxx
Bastoky, Jeffrey L., xxx-xx-xxxx
Beck, Catherine L., xxx-xx-xxxx
Blamire, Gary M., xxx-xx-xxxx
Carrino, Thomas, xxx-xx-xxxx
Charissepiercy, Karan, xxx-xx-xxxx
Civitello, John V., Jr., xxx-xx-xxxx
Crabb, Melody L., xxx-xx-xxxx
Cunningham, Forrest C., xxx-xx-xxxx
Dahlquist, Bruce H., xxx-xx-xxxx
Davidson, Dean L., Jr., xxx-xx-xxxx
Davis, Martha L., xxx-xx-xxxx
Davis, Steven G., xxx-xx-xxxx
Dubaz, Mark D., xxx-xx-xxxx
Dutton, Randy W., xxx-xx-xxxx
Dyda, Anthony J., Jr., xxx-xx-xxxx
Fieg, Edward L., xxx-xx-xxxx
Fisher, Paul W., xxx-xx-xxxx
Fredericksen, Gary W., xxx-xx-xxxx
Garcia, Jesse, xxx-xx-xxxx
Golembeske, Charles, Jr., xxx-xx-xxxx
Graziano, Alfred S., Jr., xxx-xx-xxxx
Hadeen, Dennis R., xxx-xx-xxxx
Heron, Elizabeth A., xxx-xx-xxxx
Humphrey, Edward S., xxx-xx-xxxx
James, John D., xxx-xx-xxxx
Jeter, Jack H., Jr., xxx-xx-xxxx
Kilburn, Norman W., III, xxx-xx-xxxx
Kinkade, William E., III, xxx-xx-xxxx
Kubicek, Joseph H., xxx-xx-xxxx
Liebsack, Joseph P., xxx-xx-xxxx
Lindberg, Toni M., xxx-xx-xxxx
Livingstone, Samuel J.P., xxx-xx-xxxx
Maginot, James F., Jr., xxx-xx-xxxx
Martin, William B., xxx-xx-xxxx
Morton, Daniel Rae, xxx-xx-xxxx
Narciso, Danilo G., xxx-xx-xxxx
Newsome, Susan R., xxx-xx-xxxx
Nicolas, Gregory, xxx-xx-xxxx
Orr, Tracy C., xxx-xx-xxxx
Parent, Jaime B., xxx-xx-xxxx
Pimsler, Meade, xxx-xx-xxxx
Polinsky, Karen L., xxx-xx-xxxx
Prohaska, Ann M., xxx-xx-xxxx
Reith, Michael S., xxx-xx-xxxx
Rentz, Paul A., xxx-xx-xxxx
Richardson, Ronald W., xxx-xx-xxxx
Sadorf, Stanley J., xxx-xx-xxxx
Schlossnagle, George W., xxx-xx-xxxx
Sheeks, Rodney W., xxx-xx-xxxx
Smith, Daryl E., xxx-xx-xxxx
Smith, Dennis L., xxx-xx-xxxx
Smith, James W., xxx-xx-xxxx
Swenson, Kristin N., xxx-xx-xxxx
Thompson, Henry J., Jr., xxx-xx-xxxx
Tourjee, Richard L., xxx-xx-xxxx
Triche, Valerie A., xxx-xx-xxxx
Troyer, Robin D., xxx-xx-xxxx
Valley, Thomas H., xxx-xx-xxxx
Wilber, Ronald T., xxx-xx-xxxx
Wulff, Lianne M., xxx-xx-xxxx

IN THE NAVY

The following-named lieutenants in the staff corps of the Navy for promotion to the permanent grade of lieutenant commander, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS OFFICERS

Lieutenant commander

Abrams, Robert Harold
Adamson, Nathaniel Edwa
Adler, Brian K.
Alberto, Gino, Jr.
Albrecht, Daniel
Aldrich, Marc Nathan
Almquist, Timothy D.
Anderson, Michael Hunte
Anderson, Pamela E.
Anderson, Warren
Annand, David Wayne
Aprill, Brian Scott
Arthur, Tamara X.
Avallone, John Michael
Backman, Stephen
Bailey, Eva JD.
Baker, Lee Thomas
Balt, Daid Alan
Barclay, Gregory Paul
Bass, Randale Eugene
Bisceglia, Michael
Blackburn, Paul Allen
Blair, Ellen Kay
Bohonyi, William Anthon
Bonatus, Timothy J.
Bossian, John Leon, Jr.

Boule, Burch Judith Ann
Boyce Ker
Brainard, Hugh E., III
Brannan, Donald Page
Brasfield, Joyce Borup
Braun, Dale
Bray, Jack Galen, Jr.
Breiterman, Andrew Clar
Bridges, James D.
Bridgham, Jerry Alan
Brink, David Andrew
Brinker, Jeffrey Richar
Brooks, James Robert
Brooks, John Michael
Brown, Daniel Mark
Brown, Deborah Suzanne
Bruch, Frederick Rudolp
Bryan, Dwight
Burke, Robert J.
Burton, Richard James
Butler, Dennis Michael
Butler, Edward
Butler, James Arthur
Byram, Melissa Ann
Byrnes, Gordon Andrew
Cahill, Terence Patrick
Canning, Douglas A.
Cantrell, Joyce Ann
Capobianco, David Joseph
Carnevale, Thomas A.
Carpenter, Michele Maue
Chahbazi, John Clark
Champa, James Rudolph
Chandler, Paul Evert
Chauhan, Suneet Bhushan
Cheeseman, Edward W.
Chidester, Michael David
Choban, Stephen Joseph
Christenson, Catherine
Church, Leonard W. P.
Cink, David Edmund
Clements, Walter
Clifton, Charles Lamar
Cole, Andrea Beth
Coleman, Colleen M.
Collins, Jonathan Scott
Conte, John Charles
Cosgrove, James
Cowdin, Hugh Pendleton
Cox, Gerard R.
Crawford, Jeffrey Ray
Crispin, John L.
Crumley, David Kelly
Cruz, Raquel Regina
Curiale, Steven Vincent
Curtis, Richard D.
Curtis, Peter Hodson
Cutting, Jonathan Paul
Dalton, Warren Rich
Dart, Robert
Daunis, Mark Stephen
Davis, David A.
Davis, Jack C.
Decker, Laura Jane
Delagarza, Jorge Luis
Demay, Joseph
Dempski, Jeffrey Walter
Dennen, Lawrence Edward
Denobile, John William
Dermond, Donald Michael
Devaney, Kenneth O.
Diaz, Dennis D.
Dickerson, Michael Manf
Dinneen, Michael Paul
Diveley, Kent
Dolan, Robert Paul
Doucette, David Joseph
Downey, Mark Patrick
Drake, Almond Jerkins I.
Drennan, Peter J.
Dsouza, Rikha
Dubois, David Neil
Dukowitz, Thomas Allen
Dupree, Marsha Louise
Dusenbery, David
Dwight, Gregory Dean
Edwards, Dyke Fielding
Edwards, Richard Calvin
Edwards, Thomas Bernard
Engdahl, Dwight Edward
English, James F.
Escoe, Bobby Lamar
Falvo, Thomas Christian
Feeney, John Robert
Fenton, Leslie Hall
Fetter, John Edgar
Flanagan, John F. K.
Fleck, Randolph Peter
Fletcher, Clinton Lynn
Ford, Donald Patrick
Forseth, Halfdan W.
Forseth, Lori Heim
Fox, Edward Patrick
Fredrickson, Sara Jane
Frost, Randall E.
Frum, Daniel K.
Fujikawa, Janet Nmn
Fuller, Bruce Evans
Galen, Deborah Jeanne
Gaston, Benjamin M., IV
Gaston, Susan Marie
Gerardi, William E.
Gerstein, Howard Jay
Gibb, Matthew Dewolfe
Gilbert, Raymond Lamar
Gilles, Elizabeth E.
Girolami, Stephen Gordon
Glasgow, Gary Douglas
Gleason, Barry
Goepfert, Cary J.
Goldszer, James Frankli
Gomes, Antonio Celestin
Gomez, Patrick Jose
Gottlieb, Roy
Goyins, Gale Gerard
Graf, James Alan
Graham, Scott J.
Greenwald, Jeffrey Robe
Gronkiewicz, Bruce Vinc
Grosskreutz, Scott Robe
Guinee, Jeanne M.
Guyer, Eva Ruth Ward
Hackett, Thomas E.
Hall, Thomas R.
Hallboyer, Kathryn Loui
Hansen, Keith Allen
Hawkins, Richard Eric
Hazlehurst, James Alan
Hemp, James Robert
Henderson, Raymond
Hennrikus, William Lawr
Herden, Mary J.
Hermiller, James B., Jr.
Hetzel, Donald Paul
Hickey, Thomas D.
Hirschhorn, Jessica Bet
Hoffmann, Ann H.
Hoffmann, David M.
Hogue, Gavin
Holder, Keith Franklin
Holzinger, Karl A.
Hood, Bold Robin, III
Hood, Robert Earl, Jr.
Hooker, Stephen Glenn
Horstman, William Glynn
Howe, William Lawrence
Hughes, Dennis Edward
Hunter, Robert B., III
Hurley, Donald Patrick
Inveisssiltumens, Anita
Irby, Steven Mark
Izenburg, Robert Alan
Izuno, Cynthia Toyomi
Jackson, David William
Jennings, Heidi Ann
Jentz, Irene A.C.
Jones, Gary Raymond
Joyce, Alice Plummer
Just, Norma Jean
Justesen, Lyle Richard
Kahan, Fred J.
Kaplan, William Isaac
Karl, Robert Laurence
Kase, Charles Jeffrey
Kasper, William J.
Keating, Noreen
Keating, William Joseph
Keenan, Paul Charles, Jr.
Kelleher, Brian Michael
Kelleher, Deborah D.
Kelley, Randall
Kelso, John Montana
Kemmer, Catherine There
Keppel, Amy Doran
Kerrick, Steven Scott
Kiser, Donald Raymond
Klemm, Mary C.
Knauer, Hope Elizabeth
Knoop, Kevin Joseph
Koffman, Robert Lewis
Kovacik, Mark S.
Kovats, Christian Andre
Kraftejacobs, Brian Ric
Kukulka, Rick Allen
Kummant, Eilleen
Kunz, David W.
Kynerd, Robert E.
Lamm, James Dominic
Lantelme, Bruce Edward
Lappert, Patrick W.
Larkin, Brenda Ann
Lawhead, Robert Gerard
Lee, John James
Leoni, James F.
Loeni, Michael K,
Lewis, Drew
Lewis, Evelyn Lynnette
Little, Robert Benjamin
Livenstein, Harry Paul
Llewellyn, David Mark E.
Long, Mitchell Hugh
Longstaff, James Edwin
Loriz, Vega Mark F.
Loveless, Eric A.
Lovins, Darrell Evan
Lowe, Elizabeth Haslup
Lutz, Roland Bruce
Luvin, Michael
Magrino, Thomas Joseph
Malley, Ross Anthony
Malone, Danny R.
Manfredi, Rita A.
Maquera, Victor Adalber
Marencic, William
Markwell, James Kevin
Marshall, Sharon Anne
Masci, Robert L.
Mastalski, John Hubert
Mathis, David M.
Maxwell, James M.
Maxwell, Steven John
May, Laurel Anne
Mcalfer, Irene M.
McBride, Donald W.
McCarrick, James Patric
McCarten, Michael Damia
McCarthy, Francis Micha
McCaul, James Franklin
McDonough, John Lee
McIntyre, Margaret Irwi
McKown, Kevin Mark
McLain, Kimberly Ann
McWilliams, Terrence R.
Meehan, Michelle A.
Mehegan, John Philip
Mendoza, Steve Charles
Mickunas, Victor Herber
Miller, Bruce Charles
Miller, Richard Charles
Mirkinson, Laura Jean
Mishik, Anthony Neal
Mitchell, Craig Stephen

Monaghan, Timothy Danie
Montgomery, Jean Charle
Mooney, Charles Daniel
Mooney, Robert Bruce, Jr.,
Moore, Glen Leslie
Moran, Thomas J.
Morand, Richard Eugene
Morin, Robert
Morin, William David
Moritz, John Bradley
Mueller, James Bernard
Nace, Timothy M.
Naylor, Gordon Schuelle
Neal, Charles
Nellstein, Michael Eug
Newland, Craig Charles
Newton, Thomas Arthur
Noall, Rhoda
Nomura, Jim H.
Norwood, Kenneth Westco
Norwood, Michael Wayne
Nowicki, Steven Douglas
Obrien, Patrick Michael
Odorizzi, Mark George
Olesen, Mark Clifford
Olshaker, Jonathan Stua
Olson, Russell J.
Oneil, Kevin Michael
Orban, Leonard Baily
Oswald, Richard Edward
Owen, Stephen
Owens, Paul J.
Paget, Jon David
Paparello, Scott
Park, Kyung Won
Parker, Prior Lewis
Parker, Stanley Lewis
Patterson, Michael Smit
Pellosie, Carmine John
Pezor, Laurence John, Jr.
Pierce, Lauri J.
Pigman, Edwin C.
Plaja, Dennis John
Poling, Rodney Allen
Pollard, Anthony L.
Powell, Carl Allen
Powell, Craig C.
Prokopchak, Richard
Pudimat, Mary Ann
Putnam, Karen L.
Quinn, Anthony Dennis
Quintana, Manuel R.
Raacke, Lisa M.
Race, Charles Mark
Rainbolt, Charles Danie
Ralston, Mark Elmer
Raybin, Robert Andrew
Reese, Charles A.
Reid, David Settle
Rice, James Philip
Richey, Alan Ward
Riley, Anthony Bruce
Rioux, David Conrad
Risk, Sharon C.
Rizzotto, Roxanne
Roberts, Allen H., II
Robertson, David L.
Robinson, Don E.
Robinson, Wesley Bradford
Rosati, Dennis Lee
Rosenbaum, Donald Herman
Roth, Bryan Leo
Rowe, Dennis N.
Rudick, Alan
Rudolph, William Garry
Runge, Mike
Russell, Patrick
Sageman, William Scott
Sale, Dennis
Sandusky, William
Sassler, Alfred Mark
Saylors, Robert
Scalise, Steven V.
Schall, Douglas
Schmidt, Maria Elaine
Schmidt, Mark Edward
Schneider, Steven Richard
Schnepf, Glenn Adrian
Schubert, Karen Marie
Schuppert, James
Scott, Daniel Alfred
Scow, Dean Thomas
Seldon, Stephen Lee
Shanholtz, Carl B.
Shannon, Stratton
Shiveley, David Lee
Silva, Francisco Javier
Simmons, Kay Melyndn
Singer, Adam Joel
Skoble, Luisa
Slaton, Johnny James, Jr.
Smith, Mark David
Smith, Robert Howell, Jr.
Smith, William
Smitherman, Kenton
Sover, Eric Richard
Sowa, Gail Ellen
Sparks, Alfred David
Spencer, David Duane
Stainken, Brian Frederick
Sternberg, Timothy L.
Stevens, Rom A.
Stevens, Virginia Teresa
Stockel, John Brennan
Stocks, Alton L.
Stokes, Monica Jo
Strand, William Richard
Strouse, Wayne Steven
Stults, Richard Franklin
Sugar, Jeffrey P.
Sumida, Floyd Kaname
Swindle, Glen Michael
Sykes, Steven Harvey
Syklawer, Ricardo
Taggart, Steven James
Taylor, Larry Edward
Taylor, Robert R.
Teneriello, Michael G.
Thoene, Joseph Gerard
Thomae, Cristian Maurice
Thompson, William Raleigh
Thorp, Adam Tredwell, IV
Timoney, James Michael
Tingle, Norman Rock, Jr.
Tobin, James E.
Toomey, James Michael
Torp, Eric Carl
Trescot, Andrea M.
Trezza, Scott A.
Triana, Mark
Turk, James
Updergrove, Randall Lee
Utecht, Lynn Marie
Valbracht, Louis Edward
Vancliff, Martha Ann
Vulgamore, Joseph M.
Wah, Robert Marcus
Wakefield, David W.
Walsh, Timothy P.
Wandel, Amy G.
Watsky, Kalman
Weber, Frederick H.
Weisbaum, Jon Stacey
Wenzel, Michael Scott
Whealton, Edward
Wheeler, Frederic R., II
Wiedenmann, Scott
Williams, Cynthia Jones
Williams, Cynthia Mary
Williams, John P.
Wilson, Joseph Richard
Wilson, Robert Francis
Wojtczak, Henry Albert
Wong, Henry C.
Yetman, Thomas James
York, James Kelso
Young, James
Yund, Alan Jeffrey

SUPPLY CORPS OFFICERS

Lieutenant Commander

Abramowicz, Sylvester P., Jr.
Anastos, Ernest G.
Arcement, Larry Hugh, Jr.
Barr, Robert Charles
Beail, Bernard Edward
Bechtol, David J.
Bell, Charles W.
Bennett, Jeffery Paul
Berry, Vance D.
Bozzuto, Anthony Joseph
Braden, Jeffrey David
Bruner, Charles David
Cole, Nancy Sage
Conde, Henry NMN
Cummiskey, Joseph Willia, III
Curtis, William E., Jr.
Damiano, Patrick John
Davis, Frances R.
Degeorge, John Foster
Deguia, Edgardo Tan
Dehnz, Arthur Frank
Dunn, Walter Nelson, Jr.
Ellison, James David
Evard, Edward Thomas
Fawbush, James Arthur, Jr.
Ferraro, Eric L.
Ferree, Stephen D.
Fireoved, James Scott
Foster, Stephen Charles
Frankwich, Joseph Adam
Fricke, Michael W.
Gearey, Bruce Preston
Giglio, John Pasquale
Graham, Philip Elzy
Grove, David Brian
Hamilton, Jeffrey Scott
Hamilton, Lawrence Houston
Hansen, Gordon William
Harms, Gerard Richard
Heckelman, Loren Verne
Hettich, David Stanley
Hewett, Coy Davis
Hickman, John Randall
Holland, James Francis
Holst, George Peter
Honeycutt, Thomas William
Jenks, Craig Harris
Johnston, Larry Wayne
Kelly, James Bodkin
Kennedy, Mark Jaye
Lapp, Joseph Thomas
Lee, Dennis Richard
Lengel, Daryl A.
Lien, Daniel Maurice
Loewenstein, Dennis Eliot
Lubbers, James Edwin
Martin, Dana Allen
McCarthy, Patrick J., Jr.
McLean, Hugh Scott
McLean, Patrick Lee
McNeill, Paul Lynn
Miller, Gary Wayne
Moore, Virgil Vance, IV
Morgan, Edward NMN
Mulvey, David P.
Nieder, James Eugene, II
Nostrant, Craig Howard
O'Brien, Raymond Mark
O'Donnell, Thomas Patrick
Oliver, Randal Kidd
Patty, Howard Malone
Plunkett, Michael Joseph
Poad, Douglas Allen
Prendergast, John Joseph, III
Price, Larry Dale
Priest, Janice Kay
Reeves, Robert Martin
Ritchie, Robert Joseph
Rizzo, Louis Scott
Robbins, Paul H., Jr.
Saggus, Diane Lynn

Schwaneke, Robert
Segich, Richard Thomas
Sherrick, Stephan Douglas
Singleton, Mickel NMN
Smith, Janice Stewart
Sommers, Harold Lee, Jr.
Stabile, Michael E.
Stearns, Ronald Jay
Stringer, Timothy Hampshire
Suckow, George Bruce
Sweeney, Douglas John
Taylor, Walter Cleveland
Tichelaar, Irene
Vancleave, William Morley
Vanhyning, Susan Elizabeth
Viellieu, Benjamin Louis
Waite, Stephen Joseph
Walter, Kevin R.
Watkins, Bruce Field
Watkins, Vernon Keith
Webb, Paul Bruce
Weirich, Dwight Samuel
Westmoreland, Allan Lamar
Winsper, Bruce Alexander

CHAPLAIN CORPS OFFICERS

Lieutenant commander

Alexander, Luther Charles, Jr.
Allen, Paul Dean
Alloway, Joseph Yarrow
Anderson, Ronald Mark
Brimhall, Barry William
Brown, Mark Woodbridge
Burd, John Robert, III
Butler, Richard Corey
Caiazzo, Gregory Gene
Clifford, George Minott, III
Cook, Terry Wayne
Cramblit, Donald Michael
Dean, Anthony Wayne
Demy, Timothy James
Diamond, Thomas E.
Drummond, Norman Hansel
Gischel, Ronald Arthur
Griffith, Harry William
Haines, Robert Alton, Jr.
Harris, Jackson Lee, II
Heinke, Gary Dean
Hensley, Henry Wade
Hepner, Gregory Allen
Jensen, Peter Cochran
Johnson, Dudley Vincent, Jr.
Johnson, Franklin Oscar, Jr.
Johnson, Thomas Stuart
Kirk, Samuel David
Koshko, Dennis Michael
Kudilil, James
MacDicken, Gerald Kenneth
Mallow, Duane Douglas
Mancuso, David Edward
Meyer, Ronald Frederick
Milliner, Edward Lee, Jr.
Morgan, James Patrick
Mozon, Ollis Jon, Jr.
Murphy, Thomas Edward
Murray, John William
Napial, Rodolfo Sarabia
Nichols, Danny Elliott
Parry, Daniel Williams
Patterson, James Grady, Jr.
Poe, Ernest Adlai
Pope, John William, Jr.
Reed, William Allen
Schenk, Ronald Gene
Seely, Gerald Don
Soutiere, Ronald Armand
Tate, Jessie Raymond
Washburn, Mary Ellen
Wessendorf, Forrest Edward
Winters, Steven Robert
Wooten, Joan Hedrich
York, Lorenzo
Yourek, Robert Allen

CIVIL ENGINEER CORPS OFFICERS

Lieutenant commander

Amos, Scott J.
Avedissian, Hagop Avedis
Beary, William J.
Bengtson, Robert Harry
Bentler, Jerome Fulton
Berger, James R.
Berry, Dirk E.
Beyer, Glen R.
Biggins, Timothy F.
Bollinger, John Reed
Bossa, Robert James
Calhoun, Thomas G.
Cellon, Richard E.
Chapman, Craig Hugh
Colden, Damian Andrew
Dell, James P.
Eichert, George E.
Engle, Gary Allen
Foster, Dennis Morgan
Gemender, Mark Benedict
Hague, James R.
Hirakawa, Jimmy Spencer
Katz, Richard Lee
Khan, Khalid Charles R.
Killinger, Scott L.
King, Robert H.
Komosky, Richard Paul
Lapiana, Fred G., III
Lehr, Daniel Lebon
Long, Gregory R.
Mathews, Peter
McCullum, William J.
Orndoff, Donald Hoyt
Patterson, Michael J.
Pedrick, Merritt Wesley, III
Pete, Robert Rogers
Pipkin, Wiley Eugene
Powers, George William, Jr.
Rado, Kenneth Lewis
Rakel, Jerome P.
Reidenbach, Dan Arthur
Rotz, Robert D.
Sachuk, Robert Joseph
Schaefer, Michael Edward
Schanze, Christopher Nmn
Schenk, Robert Eugene, Jr.
Schoeppner, Mark Joseph
Snyder, John Leo
Vanhutten, Darrell Young
Westberg, Robert
Willis, Chris Mack

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

Lieutenant commander

Bannon, Maureen Rose
Bannow, Steven Walker
Cooper, Billy Joe
Cornelius, Jeffrey Dana
Dronberger, Hal Henry, I.
Fresher, Brian Leo
Getchell, Anthony B.
Gilliland, Jane Nmn
Gilner, Victoria Chambe
Harbeson, William Page
Harr, James Joseph
Hatch, Gerald T.
Hills, Howard Loomis
James, Jennifer Rae
Jeffery, Stephen Glen
Johansmeier, Ray
Johnson, Paul Cambron J.
Leachman, Pennie Cannon
Lundstrom, Thomas John
Luziettimyers, Debra Ly
MacDonald, Bruce Edward
Martin, John Sykes
McGregor, Michael E.
Molinengo, Henry Richard
Monaghan, Douglas James
NeMec, Alicia Marie
Norman, James Bradley
Petronio, Ronald Anthony
Poliquin, Gerard Michae
Price, Clark Alan
Rigterink, Daniel Phill
Ritter, Wayne Lyman, Jr.
Robb, Jeffrey Brian
Rolph, John William
Romine, Terry Jo
Rummel, Michael Paul
Schapler, Robert Hans
Slown, David John
Spengler, Earl Gordon
Sweeney, William Gary
Tyra, Kevin Clarey
Vollenweider, David Oth
Wities, Robert Barrett

DENTAL CORPS OFFICERS

Lieutenant commander

Antus, James Joseph
Arena, Charles Anthony
Ash, David Lee
Bajuscak, Ronald Eugene
Barrett, Lawrence Arthur
Bestegen, Susan Carolyn
Bixler, Ronald
Bryant, Nathaniel Cedri
Bullock, Larry Joel
Butt, William Edward
Chau, James Yuk Ming
Cook, Kevin B.
Curran, Thomas Joseph
DeMayo, Thomas Joseph J.
Doll, Bruce Alfred
Eagan, Douglas Lawrence
Eifert, Kenneth Gray
Eisenhardt, Peter Willi
French, Arthur Allen
Griffee, Nancy Caroline
Haney, Scott C.
Huffman, Holly L.
Huston, James William
Johnson, Deborah Kay
Keating, Kevin Arthur
Kenney, Robert Lee
Lafferty, Thomas A.
Leary, Susan Doerr
Lento, Christopher A.
Lewis, John A.
Martin, Steven Joseph
McClanahan, Scott Brink
McKenna, Christine Elai
McLain, Kurt Alan
McMahon, Keith Taylor
Metzler, David Grant
Mocknick, Michael Charl
Moore, Becky Sue
Mounsdon, Thomas Albert
Northrop, Stephen Denni
Paul, Brian Francis
Porch, Thomas Edwin
Prose, Gary E.
Reeg, Edward George
Rhodes, Robert Stephen
Rolley, Robert S.
Rummelhart, Joanne Mari
Santulli, Gerald Anthon
Schwab, Richard Roy
Short, Kenneth Dewayne
Sindel, Dennis Wayne
Smith, James Alan
Smith, Johnny Sheldon
Synnott, Scott Arthur
Thorpe, Jeffrey Robert
Vankevich, Paul James
Varga, Klara J. Edith
Walczyk, Thomas Daniel
White, Cecil, Jr.
Wolfert, Paule Marie Be
Wolfert, Richard Evan
Wourms, Dennis Joseph

MEDICAL SERVICE CORPS OFFICERS

Lieutenant commander

Ashbrook, Fred Martin

Babbitt, Mark Ernest
Barron, Eugene Devine, Jr.
Beaugrand, Marsha Jane
Blacke, Stephen Franklin
Bloomquist, Richard Lyn
Bowman, Clarence William
Burans, James Peter
Burg, Robert Jules
Calkins, Dennis Laroy
Chinnery, Henry Michael
Clendennen, Thomas E.
Colligan, Susan Carol
Dewar, John Alexander
Dipaolo, Joseph
Engelhart, Robert John
Erickson, Richard Thorp
Faulls, John Douglas
Garner, Denzel Eugene
Gillooly, Paul Bernard
Goodman, Leland Seth
Guible, Ernest Roy, Jr.
Hann, Richard Michael
Harper, Warren Emanuel
Hedstrom, Richard Cameron
Hertan, Robert Emmet
Holcombe, Forrest Douglas
Holmberg, Jerry Alan
Hostettler, Charles Francis
Ierulli, Joseph
Jain, Sushil Kumar
Jenkins, Zachary
Jimerfield, Craig Alexander
Kerschner, Harrison Fremont
Laurent, John Milton
Manders, Julian Henry J.
Mann, Robert Allan
Marcinik, Edward John
Maxwell, Melvin Lee
Miller, Bernard Thomas
Monroy Maureen Elizabeth
Moore, Jeffrey Lee
Moos, James August
Nolan, Elizabeth Anne
Oleary, Robert Thomas
Pagan, Herman John
Patten, Thomas Gerald
Pazzaglia, Gary
Przybyl, Janee Lee
Rovig, Glen Warren
Saunders, Michael Anthony
Seidman, Joyce H.
Senn, Kenneth Karl
Sexton, John Lantz
Styer, David Jacob, Sr.
Swisher, Raymond Joseph
Swogger, Keith Alan
Thomas, Leanne Lee
Thompson, David C.
Tinney, Glenna Lea
Weaver, Michael Allen
Witte, Steven Thomas
Working, Kim Raymond
Zoeller, Lawrence Lelan

NURSE CORPS OFFICERS

Lieutenant Commander

Allison, Rick Eugene
Andrade, Rosemarie
Arington, Ronald Gene
Atchison, Melvin Lee
Bankester, Peggy Jean
Baysic, Ofelia Mandapat
Bertelsen, Ellen Doris
Boatright, Ronald Wayne
Bost, Judith Lynn Curtis
Branche, Margaret Ann
Buss, Donna S.
Campbell, James Van
Cappello, Cynthia Shaun
Carrio, Jan Marie
Castleberry, Laura Anne
Clayton, Brain Lee
Clayton, Nancy Smith
Crane, Pamela Elizabeth
Curto, Christine Josyan
Cwikla, Jacquelyn Kay
Dahlquist, Lisa Gerda
Deater, Mary Fern
Defendi, Suzanne Marie
Deltoro, Miguel Angel J.
Desalvo, Mary Elizabeth
Dood, Linda Marie
Dolan, Charles C., III
Dubbs, Lynette Tyrrell
Dunn, William David
Edwards, Mahlayna
Ehlers, Christine Diane
Esposito, Anthony NMN
Federovich, Peter Nicho
Fillingame, Mary Susan
Flippo, Polly Lynn
Frevert, Gayle Lynn
Gallagher, Patricia M.
Gallagher, Steven Peter
Gallaher, Michael Rober
Galloway, Glynn Ward, Jr.
Gamble, Patricia Mae
Glaccum, Louanne Vicker
Goulart, Ardis Ellen
Graheck, Lawrence Dean
Green, Matthew Alan
Gutch John Russell
Haffarnan, Bebe Angelin
Hammond, Leona Theresa
Hargraves, Andrea Marsh
Harrison, John Calvin J.
Harrison, Phillip Lee
Hartwell, Vathric Hami
Haughinberry, Donna Mar
Hauser, Mary Lynn
Heaberlin, Carl William
Heatley, Patsy Lee
Herterich, Deborah Kent
Hill, Frederick Charles
Holliday, Eve
Holub, Nancy Louise
Hoogendorn, Raelene Kul
Hopkins, Michael Burros
Hourigan, Jane Kathryn
Huddleston, Judith J
Hughes, Patricia
Iiams, Barbara Ann
Jeffery, James Allen
Johnson, Shirley Anne
Kerr, Susan Wycoff
Kestle, Lucinda Ann
Kingsbury, Erline R
Kinney, Mary Lois
Klaput, Donna Jean
Kotacka, Mary Jo
Ladd, Janet Yvonne
Lambert, Armand D., Jr.
Larson, Laurie Wood
Laurent, Christopher Lee
Leary, Barbara Frances
Lee, Thomas Kyle
Lemon, Marcia Hinkle
Lilly, Karolyn Ann
Lindsey, Stephen Ken
Logeman, Judy Ann
London, Linda Kay
Mabrey, Michael Ray
Madden, Susan Carol
Mahon, Maura Margaret
Maloney, Juliana Marie
Mann, Carol Patience
McClain, Dennis Raymond
McCormick, Charlotte He
McGloon, Elizabeth Brad
McKay, Deborah Ann
McKenzie, Robin Theresa
McNamara, Karen Jeanett
McNamara, Melanie Kay
Mead, Jane E.
Melidosian, Vivian Grac
Menenberg, Sonia Risa
Meyer, Geralyn J.
Michal, Diane Marie
Miller, Ann Margaret
Millington, Patricia An
Mitchell, Jacqueline An
Morgan, Jane Mercedes
Morrison, Robert Willia
Morse, Maryann Elizabeth
Mynchenberg, Thomas L.J.
Nezovich, Mary Ann
Niemyer, Elizabeth Schu
Norris, Thomas Joseph
Offringa, Robert Allan
Orr, Robin James
Pagliara, Claire Marie
Parker, Larry Bruce
Payne, Brendalee Consta
Payonk, Noreen Kay
Pellini, Deborah
Pierce, Dujwanice Marlo
Pierce, John Francis
Pierce, Kathryn Laws
Pressler, Eric Paul
Preston, Mary Catherine
Pyles, Faye Marie
Roberts, Barbara Ann
Ryan, Patricia Lee
Safran, Doris Jean
Santirogers, Darlene
Schenker, Cathy Ruth
Schjavland, Elena There
Scottbeach, Michele Jea
Shaughnesy, Larry Kevin
Shiffer, Scott Wayne
Simmons, Nancy Anne
Simpson, Peggy Faye
Sloan, Rosalind
Smith, Frances Rose
Spatrisano, William Fra
Stearns, Diane Alynn
Stjohn, Denise Elaine
Stokke, Christopher All
Straughn, Steven R.
Sullivan, Charles Lee
Tapp, Nancy Zikaras
Taylor, Charles Edwin
Tierney, Michael Steven
Todd, Jane Krabill
Tudhope, Steven W.
Waskey, Frank Joseph, Jr.
Wasneechak, Daniel Alan
Webert, Allyn Merrill
Welch, Richard Robert
Wells, Tommy Everett
Whiting, David Robert
Wiggins, George Earl
Williamson, Maureen Ann
Winchester, Marcia Isaa
Winiecki, Michael Willi
Wonderlich, Daniel Lee
Young, Kathleen Joan
Zukunft, Gay Antoinette

LIMITED DUTY OFFICER (SUPPLY)

Lieutenant commander

Brown, Dewayne Charles
Drinan, John Vincent, Jr.
Hufford, Ross Merritt, Jr.
Iverson, Douglas Wayne
Markert, George W., IV
Panado, Ernesto Felix